

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION
CASE NO. 22-cv-22671-CMA

DELIO BATISTA, CARLOS LOPEZ, Miami, Florida
MARIANA LOPEZ and RAFAELA
VALIENTE,

July 13, 2023

Plaintiffs,

9:06 a.m. to 12:53 p.m.

vs.

Courtroom 13-3

AVANT ASSURANCE, INC.,
REINIER CORTES and ANDREA
GONZALEZ QUINTERO,

(Pages 1 to 146)

Defendants.

JURY TRIAL - DAY 4
BEFORE THE HONORABLE CECILIA M. ALTONAGA,
CHIEF UNITED STATES DISTRICT JUDGE

APPEARANCES:

FOR THE PLAINTIFFS: BRIAN H. POLLOCK, ESQ.
TOUSSAINT M. CUMMINGS, ESQ.
FairLaw Firm
135 San Lorenzo Ave, Ste 770
Coral Gables, FL 33146-1878
(305) 230-4884
brian@fairlawattorney.com
toussaint@fairlawattorney.com

FOR THE DEFENDANTS: DANIEL E. TROPP, ESQ.
Law Offices of Daniel E. Tripp, Esquire
5750 Collins Ave, Apt 4A
Miami Beach, FL 33140-2316
(305) 814-2035
dantropp@bellsouth.net

SANTIAGO A. CUETO, ESQ.
Santiago A. Cueto
2100 Ponce De Leon Blvd., Ste 1250
Coral Gables, FL 33134-5267
(305) 777-0377
sc@cuetolawgroup.com

APPEARANCES CONTINUED:

REPORTED BY: STEPHANIE A. McCARN, RPR
Official Court Reporter
400 North Miami Avenue
Thirteenth Floor
Miami, Florida 33128
(305) 523-5518
Stephanie_McCarn@flsd.uscourts.gov

I N D E X

WITNESSES

WITNESSES FOR THE PLAINTIFFS:

Page

--

WITNESSES FOR THE DEFENDANTS:

Page

Alix Lesesma

4

Katrina Guerra

Direct Examination by Mr. Cueto

6

Direct Examination (Cont'd.) by Mr. Tropp

13

Cross-Examination by Mr. Pollock

42

Redirect Examination by Mr. Tropp

52

Recross Examination by Mr. Pollock

57

EXHIBITS IN EVIDENCE

IDENTIFIED

ADMITTED

Plaintiffs' Exhibit No.

--

--

Defendants' Exhibit No.

--

--

MISCELLANEOUS

Page

Proceeding.....

4

Closing Argument on Behalf of the Plaintiffs.....

67

Closing Argument on Behalf of the Defendants.....

77

Rebuttal Argument of Behalf of the Plaintiffs.....

94

Court's Closing Instructions.....

108

Court Reporter's Certificate.....

128

1 (The following proceedings were held at 9:06 a.m.)

2 THE COURTROOM DEPUTY: All rise.

3 THE COURT: Good morning. Are we ready to proceed?

4 MR. CUETO: Just waiting for counsel, Mr. Tropp; he
5 stepped outside.

6 THE COURT: Let's bring the jury in, please.

7 (The jury entered the courtroom at 9:06 a.m.)

8 THE COURT: Good morning, ladies and gentlemen, and
9 welcome back. Thank you for being so punctual. Please be
10 seated.

11 (Pause in proceedings.)

12 MR. CUETO: My apologies. Counsel would be here in
13 about three minutes, he said.

14 THE COURT: Who is the next witness?

15 MR. CUETO: Mr. Cortes -- I'm sorry, Alix.

16 THE COURT: Let -- let's bring the witness on to the
17 witness stand, please.

18 (Pause in proceedings.)

19 THE COURT: Please raise your right hand, ma'am.

20 (Time 9:09 a.m.)

21 ALIX LESESMA,

22 a witness for Defendants, testified as follows:

23 THE WITNESS: I do.

24 THE COURT: Please be seated.

25 MR. POLLOCK: Your Honor, I am going to object to the

1 recall of this witness. She was already crossed by the
2 Defendants.

3 THE COURT: I don't think that's a basis.

4 MR. POLLOCK: Okay.

5 THE COURT: Let's proceed.

6 MR. CUETO: Your Honor, I apologize. We need an
7 interpreter for Alix. We need to call Katrina first.

8 THE COURT: All right. Just put your witness on.
9 We're ready here. What witness do you want to call?

10 MR. CUETO: I would like to call Katrina because we
11 need an interpreter for Alix.

12 THE COURT: I understand. So bring your witness in
13 that you can proceed with.

14 MR. CUETO: I'll get her.

15 THE COURT: All right.

16 Ma'am, you may step off. Thank you.

17 (Pause in proceedings.)

18 THE COURT: Please approach. Please raise your right
19 hand.

20 (Time 9:11 a.m.)

21 KATRINA GUERRA,
22 a witness for Defendants, testified as follows:

23 THE WITNESS: Yes.

24 THE COURT: Please be seated. Please state and your
25 spell your name.

Delio Batista, et al., v. Avant Assurance, Inc., 22-cv-22671-CMA

1 THE WITNESS: My name is Katrina --

2 THE COURT: Speak into the microphone, please.

3 THE WITNESS: My name is Katrina, K-A-T-R-I-N-A. Last
4 name is Guerra, G-U-E-R-R-A.

5 THE COURT: Thank you.

6 DIRECT EXAMINATION

7 BY MR. CUETO:

8 Q. Good morning, Ms. Guerra.

9 A. Good morning.

10 Q. Are you currently employed?

11 A. Yes.

12 Q. Okay. And who are you employed by?

13 A. Avant Assurance.

14 Q. And how long have you been with Avant Assurance?

15 A. In October, it's gonna be two years.

16 THE COURT REPORTER: I'm sorry, how many -- how many
17 years?

18 THE WITNESS: In October will be two years.

19 BY MR. CUETO:

20 Q. And what is your current position at Avant?

21 A. I am a call center manager.

22 Q. And what are your duties and responsibilities as a call
23 center manager?

24 A. Basically to assist the senior call center manager, do
25 performance reviews, listen to calls, help train agents, things

Delio Batista, et al., v. Avant Assurance, Inc., 22-cv-22671-CMA

1 of that -- of that nature.

2 Q. When you first started with Avant, what was your position
3 at the time? What did you -- what position did you interview
4 for?

5 A. I interviewed for a sales agent, 1099.

6 Q. And do you recall, what were your duties and
7 responsibilities as a -- as a sales agent?

8 A. As a sales agent, it was basically to help provide
9 insurance, health insurance for clients.

10 Q. And how did you come to learn about Avant Assurance?

11 A. I had put my résumé out, and I was called in for -- for an
12 interview for the position.

13 Q. Okay. And did you meet with anybody at Avant for the
14 interview?

15 A. Um, with the owner, Reinier Cortes.

16 Q. Did you meet with anybody else?

17 A. No.

18 Q. Okay. And did you -- did you sign a contract, any kind of
19 contract with --

20 A. No.

21 Q. -- at the time?

22 A. No, I did not. I don't believe so.

23 Q. Okay. And what was your understanding of the relationship
24 that you were assigned -- that you were -- the position that
25 you were entering into?

1 A. Basically to have a flexible position where I can go ahead
2 -- there were resources available for me from 9:00 to 9:00
3 during the open enrollment period so that way we can go ahead
4 and, you know, help get people enrolled in the Obamacare
5 program.

6 Q. Was it your understanding you were -- as -- you were an
7 employee or an independent contractor?

8 A. Independent contractor.

9 Q. Okay. And why do you say that?

10 A. Well, basically there was, you know, the flexibility. It
11 wasn't, you know, a specific time that I had to be there.
12 There were no benefits. We got paid strictly commissions. You
13 know, having previously had that -- you know, being in the 1099
14 position, it was very similar to my, you know, previous
15 position as a 1099.

16 Q. And what -- what was promised -- what was your
17 understanding of what was promised to you in terms of how you
18 are going to get paid at Avant Assurance as -- as a sales
19 agent?

20 A. Basically we were told, you know, each carrier, what they
21 were paying per member, and that's what we would get as far as
22 commission.

23 Q. Was it your -- your understanding that your only -- that
24 your compensation was only based on commission, or was there
25 another component to that?

1 A. Commission and bonuses depending on the amount of members
2 that were enrolled and that, you know, stood on the books for
3 us.

4 Q. And how was that conveyed to you? How do you understand
5 that to be?

6 A. I'm sorry, I don't understand the question exactly.

7 Q. How does that compensation plan come to your knowledge?
8 Who told you about this compensation plan?

9 A. The owner.

10 Q. Okay. And the owner is Mr. Cortes?

11 A. Correct.

12 Q. Can you talk a little bit about the -- the hours that you
13 worked.

14 A. The hours that I worked? Well, for open enrollment, you
15 know, you were able to work from 9:00 to 9:00. I have four
16 children, so I really went ahead and maximized my time there.
17 But, you know, on the other hand, if I ever needed a day off
18 or, you know, if I needed personal time, there was never any
19 issues, which to me was huge. Being able to maximize, you
20 know, the opportunity that I had when available, but if I
21 needed to step back for something personal, being able to do
22 so.

23 Q. You said you were -- you were able to -- to work. What do
24 you mean by that, able to work? Were you required to work, or
25 you had access to the workplace?

1 A. I had access to the workplace.

2 Q. So, in other words, if you wanted to work an hour from 9:00
3 9:00 -- 9:00 to 10:00, let's say, if one of your children had
4 activities for the rest of the day, you could have?

5 A. Correct.

6 Q. Were there any repercussions? Did you have to tell
7 anybody?

8 A. No. I mean, out of courtesy, you know, I would, you know,
9 say, I have to do such and such, but it was never mandatory.

10 Q. Okay. Now, if you wanted to work 9:00 to 9:00, you could
11 do that if you chose to, couldn't you?

12 A. Correct.

13 Q. And you would do that because you would produce more?

14 A. Yes, correct.

15 MR. POLLOCK: Objection, leading.

16 THE COURT: Sustained.

17 BY MR. CUETO:

18 Q. Okay. Why is it that you would work -- want to choose to
19 work 9:00 to 9:00?

20 A. Because I know that that's when the -- you know, you get
21 the most enrollment so you have the most opportunity for
22 commission and ultimately for, you know, potential to reach
23 bonuses.

24 Q. And was there a certain period where this would happen
25 throughout the year, where sales agents would want to be at

1 work as much as they -- they could?

2 A. Yes. I mean, that's part of, I would say, you know, the
3 sales agent position; if you want to maximize potential, it was
4 -- it was open. If you wanted to be there 9:00 to 9:00, you
5 could. If it was less, that was fine as well.

6 Q. What were these intense periods called, the value of sales
7 would pick up?

8 A. Open enrollment period.

9 Q. Open enrollment. If you could describe a little bit to the
10 jury what open enrollment is.

11 A. So, open enrollment is basically when everyone is eligible
12 to go ahead and -- go ahead and get -- get a new insurance plan
13 for the year. So, when, you know, everyone's eligible. So
14 basically if, you know, you have existing clients or new
15 clients for whatever reason, they are able to, which is
16 different from special enrollment period where during the
17 special enrollment period, they would need to have, like, a
18 life change or -- you know, there would need to be a reason to
19 go ahead and -- and get the insurance. So that's, you know,
20 like for accountants, it's tax season. For us, it's open
21 enrollment.

22 Q. Okay. And would you -- would you say that position as an
23 independent contractor as a sales agent at Avant, would it
24 require a particular -- any particular skills to do your job?

25 A. Yeah, definitely. I mean, as far as being able to, I mean,

1 sell, you know, like any good sales agent. Being able to go
2 ahead and, you know, have patience, be kind to clients, listen
3 to their needs, to be able to overcome objections, you know, to
4 close.

5 At the end of the day, if you don't close, the commission
6 isn't going to come in and it was basically a waste of time,
7 you know, and a call, you know, with the client.

8 Q. And were there any special bonuses that were set up for
9 performance?

10 A. Yes. Depending on the amount of members that were enrolled
11 with a particular carrier, we would, you know, get bonuses or
12 we had the potential to earn the bonus.

13 Q. And how are these bonuses paid out?

14 A. Once the final count was in as far as how many members we
15 enrolled, the bonuses were given to us; once the owner had
16 received the bonuses, it'd go ahead and be paid out to us.

17 MR. CUETO: Lead counsel will take over the
18 questioning now.

19 MR. TROPP: I apologize, Judge. Is that okay for me
20 to take over?

21 MR. POLLOCK: Are we tag teaming, Judge, or are --

22 THE COURT: I'm sorry?

23 MR. POLLOCK: I said, are we allowed to switch during,
24 or are we doing one for one?

25 THE COURT: I don't hear any objection, so you may

1 proceed.

2 MR. POLLOCK: We object to switching counsel in the
3 middle of examination. I don't think we have done that the
4 entire time. I don't think that's the purpose -- and the way
5 the trial is conducted.

6 THE COURT: I think Mr. Cueto can continue. Thank
7 you.

8 MR. POLLOCK: Your Honor, that's fine. I'll withdraw
9 the objection. I'll let Mr. Tropp go.

10 THE COURT: All right. Objection is withdrawn.

11 You may proceed, Mr. Tropp.

12 MR. POLLOCK: Move it along.

13 MR. TROPP: Thank you.

14 MR. POLLOCK: Sure.

15 DIRECT EXAMINATION (Cont'd.)

16 BY MR. TROPP:

17 Q. Hello.

18 A. Hi, how are you?

19 Q. Katrina. So you worked with the Plaintiffs, correct?

20 A. Yes.

21 Q. And when did you start again?

22 A. October, it will be two years in October, so October 2021.

23 Q. So you did the 2021 open enrollment and the '22?

24 A. '20 to '23, yeah.

25 Q. Right, okay.

Delio Batista, et al., v. Avant Assurance, Inc., 22-cv-22671-CMA

1 A. Um-hmm.

2 Q. So for the '21, you worked -- what was it, like a small
3 room with the Plaintiffs? How big of an area?

4 A. Measurement-wise, I am not sure, but it was, you know,
5 small room. We were all -- you know, we had our desks there
6 and there were desks and things, you know, for us to go ahead
7 and -- go ahead and do our work.

8 Q. So is it fair to say you got to know the Plaintiffs pretty
9 good?

10 A. Fairly. Fairly well.

11 Q. And when you started, you started as -- you were an
12 independent contractor?

13 A. Correct.

14 Q. And you were a licensed agent?

15 A. Yes.

16 Q. And did you start with the same compensation agreement as
17 the Plaintiffs had?

18 A. I don't know. That was on an individual, you know, basis
19 or whatever agreement we came to with the owner.

20 Q. What was your agreement that you had? Like, when you
21 started -- you initially met with Reinier to get the job when
22 you first interviewed?

23 A. Yes.

24 Q. And when you went in to this interview, were you explained
25 what you would get out of the job, what your expectations were?

1 A. Yes, correct.

2 Q. And what were those expectations? From the company and
3 from what you were going to get and what they were going to get
4 in return.

5 A. Could you rephrase the question? I'm sorry.

6 Q. Well, would you agree when you interview for a job, you
7 want to know what is the agreement for the job; would you
8 agree?

9 A. Of course, yes.

10 Q. You want to know what the terms are?

11 A. Yeah, basically, um, we were gonna get paid X amount per
12 member that we were able to enroll.

13 Q. Um-hmm.

14 A. If we reach a certain amount of members, there would be a
15 bonus. And there was a space available between 9:00 and 9:00
16 during the enrollment for us to go ahead and try to produce.

17 Q. Okay. And then -- have you ever seen this document before?
18 Trying to get it in focus here.

19 A. Yes.

20 (The exhibit was published to the jury.)

21 BY MR. TROPP:

22 Q. Here we go. What is this? Do you know what this is?

23 A. Yes, that was basically the outline of, you know, the
24 numbers we needed to hit in order to go ahead and obtain a
25 bonus for each mem- -- for each carrier.

Delio Batista, et al., v. Avant Assurance, Inc., 22-cv-22671-CMA

1 Q. So when you first meet with Reinier, this was explained to
2 you?

3 A. That was a little bit -- once we were closer to open
4 enrollment. When I started, we were still doing 2021 members.

5 Q. Um-hmm.

6 A. But once this came out, I believe most of us, if not all of
7 us, were already there and it was brought to us together as a
8 team.

9 Q. Is this similar or like the agreement for the 2021 year?

10 A. Well, for the 2021 year, it was very -- I can't -- I don't
11 remember exactly what it was. I know that there wasn't a huge
12 difference as far as the per member payment that we would get.

13 Q. Um-hmm.

14 A. Or the commission that we were eligible for. The different
15 factor with open enrollment were the bonuses. So the per
16 member was -- it's not the same, similar, the bonus was the
17 bigger factor --

18 Q. And -- okay. So --

19 A. -- of open enrollment.

20 Q. So did it involve -- like, I'm -- did the 2021 plan, like,
21 can you point out how it was different from this one?

22 A. There were bonuses.

23 Q. Bonuses?

24 A. Yes. Bonuses that was -- is the different -- the factor
25 when it comes to open enrollment.

1 Q. And then what about with the amount of policies, or, like,
2 did you get -- like, the tier system; how did that work?

3 A. Basically based on usually the members for the most part as
4 far as per carrier, and then there was a different bonus if you
5 had reached X amount of policies.

6 Q. I see. So -- so how does that work, the other bonuses with
7 the policies?

8 A. I don't remember the exact numbers. It should be on there,
9 I believe -- right -- I believe.

10 Q. Was it something like this?

11 A. It would go -- there was -- on one of the charts, it says
12 per policy. You see here, it's saying per -- per Ambetter, per
13 Etna, per Bright Healthcare. There's another one where it says
14 for policies, how much bonus we would be eligible to receive.

15 Q. Okay.

16 A. I believe it's on the other sheet.

17 Q. On this sheet?

18 A. If you -- if you go down. Okay. Right there it says
19 policy either between 1,250 to 1,499, there was a \$10,000
20 bonus; 1500-1999, 15,000; 2000 plus policies, 20,000. And
21 there's a difference between policies and members. You can
22 have a policy with one member. You can have a policy with five
23 members. So that's where that difference comes in.

24 Q. All right. So -- so on here, you would have to sell 1250
25 policies -- between 1250 to 1499 to get the \$10,000 bonus?

1 A. Correct.

2 Q. But also for each one of those policies sold, depending on
3 what it is, you're getting, like, either between 5, 15 or \$35
4 for each one?

5 A. For the members.

6 Q. For the members?

7 A. Within the policy, correct.

8 Q. And for the multiple -- for each policy, it can be more
9 than one member?

10 A. Yes. Depends on -- on the particular -- the policy, the
11 individual policy.

12 Q. How does that work, more or less? You have one policy with
13 many members?

14 A. So you have someone who is a single person and doesn't have
15 any dependants and they are just by themselves. You know, as
16 far as taxes go, they -- there's one person in that policy.
17 But then if you have a married couple with three dependants,
18 it's five people in that one policy. So it depends on the
19 household size.

20 Q. Okay. So you take on this job with basically this overview
21 where every policy you sell, you get a little -- either tier 1,
22 tier 2, tier 3; 5, 10, 15, \$35?

23 A. Um-hmm.

24 Q. And if you sell a lot, you get a bonus?

25 A. Correct.

Delio Batista, et al., v. Avant Assurance, Inc., 22-cv-22671-CMA

1 Q. All right. And open enrollment, that's like the period
2 when people are just calling, that's the busy period?

3 A. Yes.

4 Q. Because there's deadlines?

5 A. Um-hmm.

6 Q. And sometimes they have the deadline extensions, correct?

7 A. Yes, correct.

8 Q. And then how many, like -- how many policies can you sign
9 up in a day, for instance?

10 A. Policies in a day? If -- you could do 40 to 50 depending
11 on how quick the day is, but you can definitely do many
12 policies in a day.

13 Q. In a place like -- would -- would you characterize it kind
14 of like a call center? Are you guys on the phone all the time,
15 or are you seeing people personally?

16 A. We're on the phones.

17 Q. On the phone and answering questions?

18 A. Correct.

19 Q. And then as -- when you sign up somebody, you have to have
20 them fill out the consent form?

21 A. Yes, we did a consent form for the clients.

22 Q. And is that a rule from the CMS; is that a required --

23 A. Yes.

24 Q. Why is that? Talk about that. Why do they require that?

25 A. Well, I mean, the way we are -- basically explain it to the

1 client is that, you know, it's not a contract of any sort, it's
2 basically them giving us permission to share their information
3 with the marketplace in order to go ahead and enroll them in
4 the -- in the plan. You know, the protection for the client
5 and for the carriers.

6 Q. And that protects the client and it protects Avant, right?

7 A. I mean, I would say it protects everybody involved. You
8 know, it's them saying yes, I give permission for -- for me to
9 be enrolled in X plan.

10 Q. And then how does it work when you get somebody to sign up
11 for a policy and they have to -- you have to get a signature, a
12 consent form for them to approve the policy? How does it work
13 if you need somebody's signature?

14 A. We would send out a simple text message. They get a link,
15 they'd open it up, you know, they'd press their buttons on
16 their end and it would come back signed. It was electronic.

17 Q. Okay. And you have to follow up with them sometimes to
18 make sure you get the papers, or how did --

19 A. It was fairly quick sales. You know, it -- and most of the
20 clients had no problem with, you know, with completing the
21 consent because they understood what it was about if the agent
22 explains it correctly.

23 So there really -- I wouldn't say there's much follow up,
24 so to speak. A lot of it was just, you know, on the spot
25 throughout the conversation with the client. Of course if the

1 client needed anything at any time, they had the number where
2 they can go ahead and call and get in contact with us.

3 Q. And just to get idea -- just to have an idea, like a client
4 will call, you will ask a few questions and then you kind of
5 like will kind of guide them in the direction of what policy is
6 best for them?

7 How -- how did -- how did the different tiers gets selected
8 by either you or the clients? How do you fit a client with the
9 right policy?

10 A. I mean, at the end of the day, you do what's best for the
11 -- for the client. And, you know, there's different aspects.
12 Does the client have a medical condition? You know, what is
13 their income? You know, can they pay a premium, can they not?
14 So really it's just doing what's best for the clients and kind
15 of seeing where -- where it falls.

16 You know, for one client, you know, they needed zero
17 dollars even if it has a deductible, you know, so on and so
18 forth, because they can't make the monthly payments. Then you
19 have other clients who are willing to go ahead and go with
20 another carrier because they're able to afford, you know, the
21 better benefits of that plan.

22 So, you know, it's just -- just dependent on how many you
23 -- how many -- I guess how many policies you sell for a
24 particular carrier and how many members you have. But there's
25 no strategy, I would say. At least on my end, it wasn't a

1 strategy, it was doing what was best for the client.

2 Q. All right. And after a while, do you kind of develop,
3 like, a technique on how to answer questions?

4 A. That comes with time and experience as -- as an agent.

5 Q. Before you worked at Avant, were you also selling
6 insurance?

7 A. I've had my 215 license since 2010, and I mostly worked on
8 -- that's the health and life licence, but I mostly did the
9 life side of things until I started with Avant.

10 Q. The 215 license, that's insurance agent license?

11 A. Correct, to sell life and health insurance.

12 Q. And -- does that also -- like, when you guys take an exam
13 and the course, is that a big theme, about doing right for the
14 client?

15 A. Of course, yes.

16 Q. What's in the interest of the client.

17 What do you guys, like, have to know about those aspects?
18 About, like, making sure you are working in the best interest
19 of the clients and, you know, like fiduciary responsibilities?

20 Like, your responsibilities for the client, what do you
21 learn as an agent --

22 A. I mean, that's where -- where the set of questions come in.
23 You know, you have to ask -- you know, ask, are there any
24 medical conditions? What are they able -- you know, find out
25 what their budget is. Things of that nature, you know, because

1 based on their need is how we are gonna put a plan together for
2 them.

3 Q. And then what about -- you guys have to study and know
4 about, like, the HIPAA requirements and, like, keeping, you
5 know, confidentiality --

6 A. Information.

7 Q. -- information?

8 A. Yes. Information should be, of course, discussed in
9 confidential.

10 Q. Okay. And I'm sorry, so before you worked at Avant, where
11 did you work?

12 A. I was at a -- an account executive for Bankers Healthcare
13 Group for about four years, and I also did with -- Family First
14 Life, I did independent contracting work for life insurance.

15 Q. How long did you that for?

16 A. I did that for about a year and a half, two years, perhaps.

17 Q. Okay. So before working for Avant, you were doing
18 something in a contracting work, but you were also an employee
19 somewhere?

20 A. Not at the same time. So with Avant, before Avant, it was
21 the Family First. Prior to that, I was an account executive
22 and --

23 Q. As an account executive, were you a W-2 employee?

24 A. Yes.

25 Q. It was more rigid?

1 A. Yes.

2 Q. You weren't allowed to set your own hours?

3 A. Not at all. It was a great company that I worked for, and
4 I chose to not work with them anymore because having four kids,
5 you know, you need flexibility, at least in my case, I did.

6 And it just -- it became too much, the -- the workload and what
7 was expected from me professionally. And it is compromised too
8 much, my personal, and so that's why I left that position and
9 decided to become a 1099 agent.

10 Q. And before working for Avant, you were doing a little bit
11 of independent contracting work, correct?

12 A. Correct, I was selling life insurance.

13 Q. And where did you --

14 THE COURT: Can you use a microphone, Mr. Tropp,
15 please?

16 MR. TROPP: Yes, Judge. Okay.

17 (Pause in proceedings.)

18 BY MR. TROPP:

19 Q. Did you go -- did you work at a certain place? Or how did
20 that work? Did you --

21 A. At times, I would go ahead and I would meet with clients in
22 their home. Sometimes we would meet in the Starbucks,
23 sometimes we did via Zoom. It was just, you know, dependent on
24 what I was able to provide as far as services that week and
25 what worked for -- for the client.

Delio Batista, et al., v. Avant Assurance, Inc., 22-cv-22671-CMA

1 Q. Okay. And when you started Avant, did you find it easier
2 to be able to do what you do as an agent --

3 A. Yes.

4 Q. -- much easier than before?

5 A. Yes, which is, you know, part of why -- even when I started
6 working at Avant, I was still selling, you know, insurance on
7 the side because I was able to do so as a 1099. But it was
8 just a lot easier to go into a place, have, you know, the tools
9 there available if I needed it and to just get to work. That
10 was definitely, you know, helpful and eased my job.

11 Q. So when you were an independent contractor in your prior
12 place, both places you are doing the same essential work, you
13 are signing people up with policies, right?

14 A. Yes.

15 Q. You are helping people get insurance?

16 A. Correct.

17 Q. And that's your specialty, that's what you are licensed to
18 do?

19 A. Yes.

20 Q. But at Avant, it's the same type of thing, but you have
21 better --

22 A. It's simplified.

23 Q. It is simplified. And you can do more -- you can help more
24 people?

25 A. Correct.

1 Q. Have more --

2 A. Work smarter not harder. I kind of fell under -- under
3 that.

4 Q. Okay. And you said also because you have the four kids,
5 that's a big -- is that a big decision for you why you wanted
6 to be an independent contractor, a licensed agent?

7 A. Correct.

8 Q. For the flexibility?

9 A. Definitely.

10 Q. Did you -- when you met with Reinier, did you tell him, did
11 you talk about that you had a need for flexibility and about
12 your kids?

13 A. Yeah --

14 MR. POLLOCK: Objection, leading.

15 THE COURT: Sustained.

16 BY MR. TROPP:

17 Q. Did you discuss matters concerning flexibility with Reinier
18 when you interviewed?

19 MR. POLLOCK: Same objection.

20 THE COURT: Sustained.

21 BY MR. TROPP:

22 Q. What did you discuss with Reinier about your -- your
23 schedule when you first --

24 A. Flexibility. It's always been huge for me. You know, when
25 I -- like I said, when I left the W-2 position, that's what I

1 was looking for, flexibility. I didn't wanna compromise any
2 time or anything that my children needed, and I definitely
3 brought that up when I initially met Reinier.

4 Q. And how -- how did Reinier respond to that?

5 A. He was very open to it. I mean, it's basically what they
6 were offering, so it worked well for -- for both of us.

7 Q. And did you at any point continue working for the other
8 company while you were working for Reinier?

9 A. Yes. I did sell a few policies in the beginning while I
10 was working with -- you know, when I was writing my services
11 for Avant, but eventually, you know, things were good with the
12 income that I was making, and so now I just kind of do
13 residuals or, you know, get referrals if I have someone reach
14 out to me for the life side of insurance.

15 Q. And was Reinier aware that you are working with another --
16 what would that be, like another broker or another agency?

17 A. It is like another broker. He knew that I was actively
18 working. Whether or not we had the conversation that I was
19 selling with the other company, I don't recall. But at the end
20 of the day, I have the right to do so as a 1099. I was
21 independent. It's a free agent.

22 Q. Were there any discussions that you had with anyone from
23 Avant saying you can't do that, you have no -- you can't work
24 for anybody else?

25 A. Not that I recall.

1 Q. What about regarding the schedule, especially for open
2 enrollment? Were there requirements to come in?

3 A. No. As I stated initially, it was -- there was a 9:00 to
4 9:00 availability for us to go ahead and, you know, perform our
5 -- you know, provide our services, basically.

6 Q. Okay. And then let me show you a -- this is a -- one of
7 the schedules.

8 A. Um-hmm.

9 (The exhibit was published to the jury.)

10 BY MR. TROPP:

11 Q. This is May 9th, and you are on that schedule, correct?

12 A. Yes.

13 Q. That's you?

14 A. Correct.

15 Q. With everybody else on there?

16 A. Yes.

17 Q. Okay. And then what was -- what was the idea behind these
18 schedules, like --

19 MR. POLLOCK: Objection, predicate and foundation.

20 THE COURT: Overruled.

21 THE WITNESS: So the idea behind that was basically
22 for us to go ahead and, you know, maximize our personal
23 production while we were there. It was just kind of a
24 courtesy, you know, like just to make sure that there was
25 always someone available to go ahead and get these inbound

1 calls that were coming in. You know, we just came up with a
2 system so that way there was always coverage, you know, for --
3 for potential clients.

4 BY MR. TROPP:

5 Q. All right. So.

6 (Pause in proceedings.)

7 THE WITNESS: And what is the date on this, if I may
8 ask?

9 BY MR. TROPP:

10 Q. This is May.

11 A. So that's basically also after -- that's during the special
12 enrollment period where things really slow down. So you
13 don't -- you know, things slow down as far as what we're able
14 to enroll as far as clients go.

15 Q. So let's say here, for instance, you're supposed to show up
16 from 12:00 to 7:00 or 9:00 to 3:00, right?

17 A. Um-hmm.

18 Q. What if you showed up at 2 o'clock or 1 o'clock? What
19 would happen --

20 A. I mean, really nothing. Nothing would happen, so to speak.
21 But once again, just as far as courtesy, I would be kind of
22 taking some potential calls away from another agent who, you
23 know, had been there from the morning and they weren't
24 scheduled to leave until that other hour. So once again, this
25 was more of a courtesy amongst us, you know, and so go ahead

1 and maximize our sales while we were there.

2 Q. So let's say, like, this would be -- let's say here,
3 Mariana is supposed to be there at 9:00 to 3 p.m., right?

4 A. Um-hmm.

5 Q. And you're -- either your set to be off that day or you're
6 supposed to come in at another time. You show up at 9 o'clock
7 on her schedule. That would be kinda awkward, right, now you are
8 potentially now taking her calls?

9 A. Right.

10 MR. POLLOCK: Objection, leading.

11 THE WITNESS: Yes, if I were --

12 THE COURT: Sustained.

13 THE WITNESS: If I were --

14 THE COURT: One second, please.

15 BY MR. TROPP:

16 Q. Wait.

17 So -- so can you -- if you came at a time that was not
18 allotted for you and it was some other agent's time, would that
19 be confusing?

20 A. There would be no consequence, but it would be a lack of
21 courtesy.

22 Q. Would it be kind of like overstepping?

23 MR. POLLOCK: Leading.

24 THE COURT: Sustained.

25

Delio Batista, et al., v. Avant Assurance, Inc., 22-cv-22671-CMA

1 BY MR. TROPP:

2 Q. Well, why would it -- why would it be a lack of courtesy?

3 A. Because there -- there's potentially -- there's less calls,
4 like I had stated before, during the special enrollment period,
5 and so you're, you know, kind of taking away opportunity from
6 -- from another agent.

7 Q. When these schedules were made, did -- did the -- did the
8 agents themselves have input on how they were made?

9 MR. POLLOCK: Leading.

10 THE COURT: Sustained.

11 BY MR. TROPP:

12 Q. How are these schedules made?

13 A. Basically just that, you know, these are -- you know, as
14 far as the 9:00 to 9:00 where the office was open, if we split
15 it in half, right.

16 Q. Um-hmm.

17 A. These would be the two shift. It would be the 9:00 to 3:00
18 and 3:00 to 9:00. What works best for who. And, you know --
19 and this wasn't every week that it was the same, you know, it
20 was alternating. We -- if I couldn't open, you know, or be
21 there from the 9:00 to 3:00, I would, you know, take the later
22 shift. If, you know, I needed to -- to do vice versa, it was
23 fine.

24 I mean, as you see there, there's one day where I think I
25 am 12:00 to 7:00 because that's what worked for me on that day.

1 And so that's what we went ahead and -- and agreed upon --
2 agreed upon.

3 Q. What would happen -- and again, if you couldn't make it, or
4 if you decided you didn't want to show up some day, how would
5 that work?

6 A. I don't understand how --

7 Q. Let's say you are set -- here you were supposed to come at
8 3:00 to 9:00. And let's say one of your kids had a play at
9 school and you wanted not to go to work; how would that work?
10 What would you do?

11 A. Well, what I would do personally is I would let my
12 colleagues know, Ray at times, you know, Hey, listen, I'm not
13 gonna be able to go in for the shift that I had signed up for
14 and that was it. But that was courtesy. There were times when
15 an agent didn't show up and there were no consequences, even if
16 they didn't reach out to anyone.

17 Q. And if you couldn't show up, you said as a matter of
18 courtesy, would you have to clear it with Reinier or Andrea, or
19 who would you have to clear that with?

20 A. No, it never had to be cleared. As I stated, it was just
21 courtesy if I chose to reach out to let my colleagues know that
22 I wasn't gonna, you know, be in.

23 Q. Would you say that it was a professional atmosphere working
24 with the other agents?

25 MR. POLLOCK: Leading.

1 THE COURT: Sustained.

2 BY MR. TROPP:

3 Q. What was the atmosphere working with the other agents?

4 A. It was a calm atmosphere. It was a good atmosphere. I
5 mean, we went in. I feel like we were all friendly. It was a
6 good group, but we all went there to work and produce.

7 Q. Was -- what -- what was the idea behind the hours; was it
8 -- was it based on requirement to work, or did you guys work
9 because --

10 A. It was based on potential to produce, basically. That's
11 what it was. You know, how can we maximize our production as
12 1099 agents with the space that's available, and this is
13 basically what we had agreed upon.

14 Q. All right. And, um.

15 So -- so wait. October, November, December -- about
16 nine months, for about nine months you worked in, like, an
17 office space with about four of the Plaintiffs?

18 A. Yes.

19 Q. Okay. And did -- at any point did you ever hear any of the
20 Plaintiffs say, Oh, I'm not getting paid correctly, something
21 to that effect?

22 A. Not that I recall.

23 Q. Did you ever to hear any, like, complaints about the
24 company from the Plaintiffs?

25 A. Not that I recall. Not in particular.

1 Q. Did anyone ever, like, mention, Oh, I earned a bonus and I
2 didn't get it?

3 A. I mean, not that they didn't get it. I know that once the
4 numbers came out, you know, do you know where -- you knew where
5 you fell. It was kind of -- especially if you made one of the
6 bigger bonuses, it was exciting. But the details of everyone
7 else's bonus and commission, I -- I don't recall any of that
8 information.

9 Q. When you guys would earn a bonus, like, did -- like, did
10 you ever hit one of the big bonuses, like the -- like this?

11 A. Yes, I did.

12 Q. What was it, the Oscar bonus?

13 A. Yes.

14 Q. That's the one where you have to get, like, 600 people in a
15 certain amount of time?

16 A. Correct.

17 Q. And you get, like, \$25,000?

18 A. Yes.

19 Q. Was that like an exciting moment --

20 A. For any of us, it was definitely an exciting moment.

21 Q. And when you signed up the 600th person, what did you do?
22 You --

23 A. So it was definitely a celebration if you had reached that
24 number, but ultimately, we knew you had to hit a lot higher
25 than that because things happen. Client don't pay premiums,

1 clients go with another carrier. You know, things happen where
2 some things fall off the books and ultimately it would have to
3 be what's it on, what -- what did we sell -- that stuff. So
4 although this was kind of exiting, you know, we had to do a lot
5 more in order to go ahead and actually have the 600.

6 Q. There's no, like, a bell that you ring when you -- when you
7 hit the 600 --

8 A. No, not a bell. No.

9 Q. But did you go to Reinier and say, Hey, I got the 600th
10 person?

11 A. I can't recall if I at that moment, you know, how I
12 reacted. But, you know, everyone's different. Everyone has
13 their personalities. Some people are, you know, more open and
14 out there than others, some are more private. So it would
15 depend on the individual, how they chose to, quote/unquote, I
16 guess, celebrate reaching a bonus or getting to a certain --
17 certain number of members.

18 Q. Would you say that to a certain extent, there is a little
19 competition with the agents?

20 A. I think anything that has to do with sales, there is always
21 underlining competition. It's just the nature of the business.

22 Q. And you guys would sometimes, like, tell each other, Oh, I
23 got more, or I got less?

24 A. Once again, it all depends on the individual. Some, you
25 know, spoke more than others and were more open than others.

Delio Batista, et al., v. Avant Assurance, Inc., 22-cv-22671-CMA

1 Q. Did you ever hear Delio say, Hey, I got this bonus, the
2 tier 600 Oscar selling bonus?

3 A. Delio was actually one of the more quiet ones. So I can't
4 recall if I -- hearing him say he had reached or did not reach.
5 He was definitely one of the more introverted agents in the
6 office.

7 Q. Did you ever hear him say, Oh -- in all the time you're
8 working there, you never heard him complain or have any, like,
9 comments regarding not being paid anything?

10 MR. POLLOCK: Leading.

11 THE COURT: Sustained.

12 BY MR. TROPP:

13 Q. Did you ever hear Delio Batista -- what -- what did you
14 ever hear Batista say about commissions or bonuses owed, if
15 anything?

16 A. I have never heard him really speak about that. As I said
17 before, he was just very private. He was more introverted.
18 Very kind person, very professional, but definitely more to
19 himself.

20 Q. What about Rafaela, have you ever heard her mention
21 anything to that effect?

22 A. To what effect exactly?

23 Q. About -- did -- did you ever hear Rafaela say anything
24 about unpaid commissions or bonuses?

25 A. Not that I recall.

1 Q. What about Mariana -- when you say, Not that I recall, do
2 you --

3 A. I can't remember --

4 Q. -- can't remember?

5 A. Yeah, I can't remember hearing anyone. I mean, when it
6 comes down to what we are making, you know, it's not the most
7 common conversation because, you know, everyone is just trying
8 is to do their own thing. So that wasn't a conversation that
9 was, I would say, frequently had as far as, you know, that
10 goes.

11 Q. Was there any discussion or expectation whatsoever of being
12 paid hourly?

13 A. No.

14 Q. What about overtime?

15 A. No.

16 Q. Did you ever think that that was part of the agreement?

17 A. No.

18 Q. Did you ever hear any of the other agents talk about hourly
19 or overtime?

20 A. No.

21 Q. And now you work on the office side of things?

22 A. Now, currently?

23 Q. Yes.

24 A. Yes.

25 Q. And you're a W-2 employee?

1 A. Yes.

2 Q. When did that switch; do you know?

3 A. August 1st. It is going to be a year August 1st.

4 Q. And it's a salary, straight salary?

5 A. Yes.

6 Q. Is that better for you?

7 A. When I chose to go ahead and do that transition, it was
8 just based on the respect that I -- that I have, you know, for
9 Avant and the fact that they are still very understanding and
10 flexible; for me, that was very important. So yeah, there's
11 probably higher expectations as far as me having to --
12 quote/unquote, having to be there, but if need be, you know,
13 I've never been told no, you cannot attend such and such or
14 have this day off, so on and so forth.

15 Q. And you -- but you work on the office side of things now?

16 A. Yes.

17 Q. Do you ever work with employment tax for the employees?

18 A. No.

19 Q. You don't work that aspect?

20 A. No.

21 Q. Okay. Do you know anything about that?

22 A. Not really. As far as the taxes we report, I just know
23 it's taken from the W-2 income.

24 Q. Now -- now, in all the -- in the time that you worked for
25 Reinier and Avant and Andrea, did you ever, like, have a

1 discrepancy or something like, Oh, I might not have been paid
2 on something, and discussed it with them?

3 A. So there was one time -- so when we were transitioning --
4 like, the last month -- November -- November/December, you
5 still made the enrolling -- well, for November, you still may
6 be enrolling people for the 2021 --

7 Q. Um-hmm.

8 A. Well, in that time, it was for the 2021, even though it was
9 just for one month, I did do my enrollments in addition to the
10 2022. So I had gotten a deposit, and the numbers that I had
11 for the 2021, I didn't get that deposit. I had sent an e-mail
12 over to Reinier and then I went into his office. I think he
13 had called me in based on the e-mail and immediately I got the
14 deposit.

15 Q. Have you ever heard a situation from either -- any of the
16 Plaintiffs or any other agent where they might have had a
17 discrepancy and they discussed it with Reinier?

18 MR. POLLOCK: Leading.

19 THE COURT: Sustained.

20 BY MR. TROPP:

21 Q. Have you ever heard of any other agents having
22 discrepancies about payments?

23 MR. POLLOCK: Objection, elicits hearsay.

24 THE COURT: Overruled.

25 THE WITNESS: Not that I recall.

1 BY MR. TROPP:

2 Q. What about have -- did you ever hear one of the Plaintiffs
3 have a discrepancy and they either work it out or not with
4 Reinier?

5 MR. POLLOCK: Leading.

6 THE COURT: Overruled.

7 THE WITNESS: Not that I recall.

8 BY MR. TROPP:

9 Q. Okay. So you had an issue, you sent him an e-mail and he
10 took care of it?

11 A. Correct.

12 (Pause in proceedings.)

13 THE COURT REPORTER: You have to zoom it out on the
14 top.

15 MR. TROPP: Zoom it out. Thanks.

16 THE COURT REPORTER: You're welcome.

17 BY MR. TROPP:

18 Q. What's this line on the bottom? Can you read that part?

19 A. "Bonuses will be paid in April of 2022 or once we receive
20 compensation for the -- from the insurance companies. Agent
21 will need to be actively producing for the agency at the time
22 of payment."

23 Q. What is that last sentence; what is that about?

24 A. Basically once the insurance carriers paid, and you were
25 active with the company, you were going to go ahead and get

1 your bonus, if you earned one.

2 Q. Why did you have to be active -- actively producing for the
3 agency at the time of payment to get the bonus?

4 A. I wouldn't know how to answer that. I don't run Avant.

5 Q. Well, is it important, once -- once you sign up a policy or
6 -- or sign up people, is it important to remain as an agent
7 after that?

8 MR. POLLOCK: Leading.

9 THE COURT: Sustained.

10 BY MR. TROPP:

11 Q. After a policy is signed, do you have any responsibilities
12 towards the people you signed up?

13 A. I would say an agent who's a good agent, you always want to
14 have the line of communication open with your client. It is
15 important to -- for retention, I would say, for any business.

16 Q. And why is that?

17 A. To be able to have the client trust you and count on you
18 and be there, that's what needs to stand out as an agent.

19 Q. And do you get that? Do you get calls from people you
20 signed up, or is it after you sign them up, that's it, you
21 don't hear from them?

22 A. And as I stated, for the most part, it's just, you know,
23 one transaction. But then you do have those clients who, you
24 know, keep calling. Even now as a manager, I have clients who
25 I signed up in 2021, and they want to just speak to me. So I

1 will get on the phone and I will speak to them and I will help
2 them out. It's just part of the job.

3 Q. And do you know, do the participating insurance companies,
4 like Oscar or Ambetter, do they have -- do they require that?
5 Do they have requirements on making sure that -- um, that the
6 agents are actively producing after --

7 A. I don't know what their requirements are.

8 Q. Okay. Almost done here. Okay. That's it. Thank you.

9 A. No problem. Thank you.

10 CROSS-EXAMINATION

11 BY MR. POLLOCK:

12 Q. Good morning, Ms. Guerra. My name is Brian Pollock. We
13 have not met before, have we?

14 A. No, we have not. Good morning.

15 Q. Good morning. It's nice to meet you.

16 A. Same here.

17 Q. I think -- were you here yesterday and we just didn't get
18 to you?

19 A. Yes.

20 Q. We're sorry about that. Things were running a little
21 longer than expected, but I know we're doing what we can to
22 move things along. I will try to be as quick as I can with you
23 today. I'm just going to run through some questions. If you
24 don't understand anything I am asking you, please let me know,
25 okay?

Delio Batista, et al., v. Avant Assurance, Inc., 22-cv-22671-CMA

1 How long -- let me back up.

2 You have been working at Avant and you said almost two
3 years?

4 A. Correct.

5 Q. How long is your commute in the morning to get to Avant?

6 A. Now, at the moment, my commute is about 25 minutes.

7 Q. And you say now, at the moment, does that mean that you
8 used to work -- you used to live further away from work?

9 A. I used to live -- well, in the office that we had before
10 where we were all together, we were -- I was closer. Once they
11 moved, it became a little bit more of a commute.

12 Q. Okay. And Mr. Tropp showed you that comp -- 2022
13 compensation agreement, it was that two-page document that had
14 the 5 -- 5 to 35 per member and the different bonuses, right?

15 A. Yes.

16 Q. Did you consider that the contract under which you would be
17 paid while you were working at Avant?

18 A. Yes.

19 Q. Okay. And when you needed to take a personal day or you
20 needed to go on vacation, you would e-mail either Mr. Cortes or
21 Ms. Gonzalez Quintero that you would be out of the office for
22 the time period that you were paid as an independent
23 contractor; is that what happened?

24 A. If I needed time off, it would depend. There was maybe an
25 occasion or two where I sent an e-mail. There were times where

1 I made a phone call. And, once again, it was out of common
2 courtesy.

3 Q. But it was a courtesy that you would let them know that you
4 would not be in, whether it's tomorrow or the next day or in a
5 week or two, right? You would always let them know in advance
6 as a courtesy?

7 A. Typically.

8 Q. And that's because you were working for somebody else that
9 it would be courteous to just not show up out of the blue,
10 right?

11 A. I'm sorry, I don't understand.

12 Q. Sure. I mean, you were being courteous to the people you
13 work for to let them know that they needed to have your space
14 covered that day because you wouldn't be in, right?

15 A. Well, to me, there is a difference between working for and
16 working with.

17 Q. Okay.

18 A. As a team, if -- you know, I know that there is a certain
19 amount of, let's say, leads that may come in. If I'm not going
20 to be there to produce, you know, maybe they can say, Hey --
21 you know, maybe there's someone else who can go ahead and get
22 that -- get that business.

23 Q. Right. I mean, they could -- they could fill the seat for
24 somebody else, right?

25 A. I'm sorry?

1 Q. They could fill your seat with somebody else if you weren't
2 going to be in; is that what you are saying?

3 A. What I am saying is, there is a certain amount of calls
4 that are gonna come in. If I'm not gonna be there, right, yes,
5 essentially someone else could be there, someone else could
6 not. It's just -- as I stated, it's just common courtesy.

7 Q. But you didn't needed -- you did not need to fill that
8 seat, that was what Avant did. They filled the seat for you if
9 you weren't going to be in, right?

10 A. I don't --

11 Q. Okay. Maybe we are not understanding each other.

12 A. Yeah, I don't think so.

13 Q. Okay. If you weren't going to be in, would Avant have
14 placed somebody else on your -- on the schedule in your place?

15 A. Avant didn't have to.

16 Q. I am not asking you if they have to.

17 A. There were times, even amongst us as, you know, colleagues,
18 you know, we would talk, and sometimes someone would just not
19 be there. If you can't, you can't.

20 Q. Okay. And if you can't, you can't. And then what happens,
21 then the other agents just get the calls?

22 A. I am not sure exactly what -- how they would deal with that
23 as far as the other agents at Avant.

24 Q. But you thought you were an independent contractor because
25 you were flexible in your schedule, right?

1 A. Yes.

2 Q. And then August of 2022, comes around, and you become an
3 employee, right; that's what you told us?

4 A. Yes.

5 Q. And what you said was that they were still understanding
6 and flexible when you became an employee, and that was with
7 regard to your schedule; is that correct?

8 A. Not, I would say, my schedule, per se, but my personal
9 needs. Like, you know, if there is a day that I can't come in,
10 if I may need to leave early, there wasn't an issue.

11 Q. Okay. Just like when you were an independent contractor,
12 if you needed to leave early or you didn't come in, there
13 wasn't an issue, right?

14 A. No, there wasn't an issue then either.

15 Q. So there wasn't an issue then, and there is not an issue
16 now; can we agree on that?

17 A. I would say for the most part.

18 Q. You said that you needed certain skills because you are in
19 sales, right? You needed -- let me take a look at what I wrote
20 down.

21 You needed to be a good sales agent, you needed to be --
22 you need to have patience, you needed to be kind to clients and
23 you needed to be able to overcome objections. I think those
24 were your words, right?

25 A. Yes.

1 Q. And just so we get a perspective what -- the items or the
2 insurance policies that you're selling, on average, how much
3 did it cost the members during this open enrollment period,
4 let's say from 2021 to '22? How much would each member
5 normally have to pay for a policy out of pocket?

6 A. It would depend on the client.

7 Q. Okay. And let me break it down, because I know there is a
8 bunch of different insurance policies.

9 Did you -- Oscar, you sold the most of Oscar policies out
10 of any of the different policies offered; would you agree?

11 A. Yes.

12 Q. Okay. And Oscar typically would charge a client how much
13 money per member per month?

14 A. That would depend on whatever subsidy the client qualified
15 for. It could be from zero a month and you have clients who
16 pay \$300 a month.

17 Q. Okay. And this arrangement for insurance that you were
18 selling, that would last, at the most, for a year? Each policy
19 could be in place for as long as a year?

20 A. Yes.

21 Q. So the most we are talking about, an item that could cost
22 zero dollars or maybe at most \$2400 a month -- \$2400 a year if
23 we are talking about at \$200, right?

24 A. Okay.

25 Q. Yes? And you have gone to a car dealership, have you not?

Delio Batista, et al., v. Avant Assurance, Inc., 22-cv-22671-CMA

1 A. Me?

2 Q. Yeah.

3 A. My husband does all of that.

4 Q. You don't know about buying cars?

5 A. I don't. I really don't deal with that much.

6 Q. Okay. And then during open enrollment, did you work 9:00
7 to 9:00?

8 A. I would say for the most part, I did work 9:00 to 9:00.

9 Q. So I mean, you know, what we are talking about here -- and
10 part of this case is about overtime. You are not going to sit
11 here and tell the -- all of us in the courtroom that my clients
12 didn't work more than 40 hours a week during open enrollment,
13 are you?

14 A. I'm sorry?

15 Q. You are not going to tell us in the courtroom that Delio
16 and Mariana and Rafa and Carlos were working less than 40 hours
17 during open enrollment?

18 A. Most of us were there from 9:00 to 9:00.

19 Q. Is that something that Mr. Cortes and Ms. Gonzalez Quintero
20 knew as well, that, you know, the agents were working the 9:00
21 to 9:00 schedule during open enrollment?

22 A. They knew that we were working 9:00 to 9:00 typically?

23 Q. Yes.

24 A. That was available for us, and if you wanted to maximize
25 production and bonus, the more you were there, the more you

1 produced.

2 Q. And my question was, is that something that they knew?

3 A. They -- for the most part. I mean, you know, they also
4 worked, so they were there a lot of times.

5 Q. Okay. And during the whole time that you were at Avant,
6 was that your main source of income?

7 A. My main source of income, yes.

8 Q. I mean, you would say that -- as far as you personally, you
9 were economically dependent on Avant to make a living?

10 A. I did have, as I said, the opportunity and I did sell life
11 insurance on the side because I have -- I had my license with,
12 you know, the other carriers for life, but I felt the most
13 comfortable with the Avant structure. It just made the most
14 sense for me. It worked.

15 Q. And you made the most money from Avant. I mean, you didn't
16 get your -- you know, if you put your -- the money that you
17 made in the year on a balance, you had Avant on one side and
18 you had, you know, the side gig on the other selling life
19 insurance, I mean, the scale is going to tip heavily in favor
20 of Avant, won't it?

21 A. Yes.

22 Q. Okay. As far as the -- the work that you performed at
23 Avant, I mean, all you had to do was walk in the office, right?
24 You didn't have to bring anything. You didn't have to bring
25 clients. You didn't have to bring computers. You'd just walk

1 right in and just do your work, right?

2 A. I mean, they had, like, computers and stuff available for
3 us, but if you wanted to -- like, I brought my iPad, I had
4 brought a mouse. There was a moment where we felt like maybe
5 if your mouse was quicker, you'd answer the phone quicker. So
6 we would bring in -- I know a couple of other agents also
7 brought their own mouse. Cell phones, you know. So yes, the
8 equipment was there, but we were never -- you know, if we
9 wanted to bring something in, it was fine.

10 Q. Yeah, I mean --

11 A. Never an issue.

12 Q. Sure. If you wanted to bring a mouse and -- I mean, just
13 so everybody in the courtroom understands. When a call comes
14 in through Radius Bob, it's kind of like Jeopardy, right, where
15 the first one who clicks gets to answer?

16 A. Typically that's how -- how it can be.

17 Q. So it's just -- you know, that's -- you -- that's how you
18 determine who gets the call, you just have to be able to click
19 and get the call, right?

20 A. For the most part.

21 Q. Okay. And then, you know, have you driven on I-95, like
22 any long distance?

23 A. Yes.

24 Q. Okay. And then, you know, sometimes you're just driving
25 and you get caught up in traffic and you're just kind of going

1 with the flow of traffic, right?

2 A. Um-hmm.

3 Q. That's right? Yes?

4 A. For the most part.

5 Q. Okay. And then when you're going with the flow of traffic,
6 does that mean that you are not speeding? Could you be
7 speeding if you are going with the flow of traffic?

8 A. That's why I said for the most part.

9 Q. Okay. But I'm saying, if you are going with the flow of
10 traffic, you understand --

11 A. If that's what you are choosing to do, then yes.

12 Q. Okay. And just so we all understand as far as your
13 background, because we didn't go into that in any kind of great
14 detail. You have no legal training; is that correct?

15 A. I'm sorry?

16 Q. You have no legal training?

17 A. No.

18 Q. Okay. You have any training in human resource management?

19 A. No.

20 Q. You are not an accountant?

21 A. No.

22 Q. You don't hold yourself out as somebody who has any
23 particular specialty or expertise in deciding who's a employee
24 and who's an independent contractor; is that fair to say?

25 A. That's fair to say.

1 Q. Okay. And then as far as working at Avant, you indicated
2 that you're paid a salary; is that right?

3 A. Currently, yes.

4 Q. Okay. And so for the time that you are spending here with
5 us, is being paid for by Avant as part of your salary; is that
6 what we should understand?

7 A. Yes.

8 MR. POLLOCK: Thank you. No further questions.

9 MR. TROPP: Can I get a quick follow up?

10 THE COURT: Yes.

11 REDIRECT EXAMINATION

12 BY MR. TROPP:

13 Q. Real quick, let's say you are signing up all of these
14 people. How do you keep track, how do you keep accountability
15 of what's owed to you?

16 A. You mean initially when we started working or --

17 Q. Yeah.

18 A. Well, for example, I had in the -- I would say the first
19 probably month or two, I would, at the end of the day, put the
20 total number of members on another spreadsheet, and then I
21 would put my total so I knew what was owed to me. I did that,
22 I would say, for a couple of months and then I kind of lost
23 my -- you know, I felt like I was getting my deposits if things
24 matched up, you know. But that would be dependent on the agent
25 in particular, how they chose to keep track of that.

1 Q. And while you were there, you could go through the system
2 and see what's going on with the policies you listed?

3 MR. POLLOCK: Outside the scope.

4 THE COURT: Overruled.

5 THE WITNESS: Yes.

6 BY MR. TROPP:

7 Q. And did you ever discuss with any of the other agents about
8 how -- like, how -- other ways to possibly keep track of what's
9 owed to you?

10 MR. POLLOCK: Outside the scope.

11 THE COURT: Overruled. I will allow recross.

12 THE WITNESS: Not in particular. I mean, I -- I -- I
13 know -- I'm pretty certain that, you know, other agents were
14 keeping track, but as far as the exact format and everything,
15 everyone kind of had their own way of doing things.

16 BY MR. TROPP:

17 Q. Did you ever have restrictions, like you weren't allowed to
18 bring a cell phone?

19 A. No.

20 Q. Did --

21 A. When things slowed down, we had actually -- Netflix,
22 whatever we could to entertain ourselves if we chose to hang
23 around.

24 Q. And so there were slow days, you guys would watch -- watch
25 Netflix?

1 A. I would say it -- it's happened, yes.

2 Q. But tell -- explain to me, like, how do you -- how else
3 could you keep track of what's owed to you or what you closed?

4 A. As I stated, that's how I did it. Exactly how everyone
5 else did it, I -- I can't speak for them. I just -- I would
6 put the members, what that would equal and I had an idea of,
7 you know, what was -- what was going to be owed to me.

8 I also -- I don't know if it's -- I want to go back to the
9 -- like, to the flexibility about before and after, because
10 it's just sticking with me. I mean, at the end of the day, if
11 I gave notice as a 1099, it was out of courtesy, but there were
12 no consequences. However, now, if, you know, I weren't to give
13 notice or even if I were to have -- you know, there -- there
14 would be consequences, I'm sorry.

15 So there is -- so there is definitely a huge difference in
16 those two. I'm sorry, it just stuck with me.

17 Q. A huge difference because you are a W-2?

18 A. Correct. Exactly. There can be consequences for that.
19 Whereas before, there weren't.

20 I'm sorry. Proceed. I'm sorry.

21 Q. Let's say, like, after court's over, I am sitting in the
22 same place you're sitting, and I say to you, I want to sign up
23 for a policy, sign me up. You would be able to talk to me
24 about it? Would you be able -- what would we need?

25 A. As far as being able --

1 Q. For you to --

2 A. -- currently?

3 Q. -- to service me. Sign me up on a policy.

4 A. I would need to go ahead and run a quote and get your
5 application into the system, your information into the
6 marketplace.

7 Q. Would you need a phone?

8 A. No. Now I would not be able to do it with my phone.

9 Q. Would you need a computer?

10 A. Currently, I would need a computer.

11 Q. Would you be able to use your laptop?

12 A. Yes, be able to use a laptop.

13 Q. Would you -- would you need to ask Reinier for access to
14 the system? Would you be able to -- for him to give you access
15 to the system, you could ask Reinier?

16 A. That would be dependent upon him at this point.

17 Q. And once you have the laptop, what, you would ask me
18 questions?

19 A. I would ask you questions, fill in the information and then
20 it would be processed and put into the system. Well, even for,
21 like, COVID. There was a time when COVID went through the
22 office; we got it, like, in two ways. We worked from home. We
23 were able to go ahead and work from home during that time.

24 Q. So the big tool, the tool that you would need to sign me
25 up, you would need access to a computer?

1 A. Correct.

2 Q. Any computer?

3 A. I actually bought two monitors for that time so that way I
4 could --

5 Q. And you'd have to answer my questions?

6 A. Right. Yes.

7 Q. So you would need your mouth?

8 A. Yes.

9 Q. To answer my questions. And you would need yourself?

10 A. Correct.

11 Q. Yourself would be a tool to help me service them, right?

12 MR. POLLOCK: Leading.

13 THE COURT: Sustained.

14 BY MR. TROPP:

15 Q. Any other tools that you would need to service a client?

16 A. No. Thankfully with technology, nowadays when it comes to
17 insurance sales, it tends to be pretty -- a pretty easy sale.
18 There is not a lot of overhead, so to speak. As long as you
19 have access to the software and the right portals, you are able
20 to do it.

21 Q. What about a pen; would you need a pen maybe?

22 A. Perhaps.

23 Q. As a tool?

24 A. If the system goes down and you need to go paper route, a
25 pen would help.

1 Q. It's more about person to person, would you say?

2 MR. POLLOCK: Leading.

3 THE WITNESS: I would say --

4 THE COURT: Sustained.

5 MR. TROPP: I will withdraw that. Thank you.

6 RECROSS EXAMINATION

7 BY MR. POLLOCK:

8 Q. I'm going to be super brief. You said that during COVID,
9 you were able to work from home. Is that because Mr. Cortes
10 and Ms. Gonzalez Quintero allowed you to work from home?

11 A. They allowed me to?

12 Q. Yes.

13 A. I wanted to keep producing and I did so from home.

14 Q. Okay. And then afterwards, if it takes you -- you know,
15 why continue to go to an office if you can just work from home?

16 A. For me, I have -- I have a seven-year-old son and he is all
17 over the place. It just -- for me, it's just more convenient
18 to go to -- where there is a space.

19 For example, when I did insurance, I never invited anyone
20 into my home. I would either meet up with them or, you know,
21 do it in another place that was more convenient for me to go
22 ahead and complete -- complete the subscription for the client.

23 Q. Yeah, but you said the whole -- the whole subscription
24 process was over the phone and the Internet, right?

25 A. Yeah. But when you have a child running ramped in the

1 back, it's not as simple.

2 Q. Does your child go to school?

3 A. I'm sorry?

4 Q. Does your child, seven year old, go to school?

5 A. He does. He goes to school, but we are also talking two
6 years ago, so.

7 Q. Your child wasn't in school two years ago?

8 A. When I started, he had just gone into kindergarten or was
9 going to go into kindergarten.

10 Q. Okay. So he's in kindergarten from, what, 7:30, 8 o'clock
11 in the morning until, what is it, 3 o'clock, something like
12 that?

13 A. Till 1:50.

14 Q. You didn't work from home from -- in the morning because it
15 was just easier?

16 A. I'm sorry?

17 Q. I said, you didn't work at home even though there's no
18 commute involved. You went into the office at Avant?

19 A. I never preferred to work from home. I like to be out. I
20 -- just everyone has their way of working. To me, when you are
21 home, it is kind of easy to get distracted; there's the TV,
22 there's laundry, there's the dishes, so on and so forth. I
23 like to maximize my production when I'm, you know producing,
24 and that's being out of the home space for.

25 Q. I mean, that's pretty much, in your mind, the only reason

1 why you thought you were an independent contractor is because
2 you had flexibility as to when you could work?

3 A. That's the only reason why I thought I was an independent
4 contractor?

5 Q. Sure.

6 A. I don't understand.

7 Q. Okay. Well, you told us that you had flexibility and there
8 were no consequences, right? That's -- and then you came back
9 and you thought about my question because it was a good
10 question and then you said, Well, you know, actually, there was
11 -- you know, there were consequences for an employee --

12 A. There were no consequences if you couldn't show up. I
13 mean, you don't get that in a W-2. I'm sorry, I am in a W-2
14 position currently. If I don't show up for a shift, there are
15 going to be consequences when I get to work.

16 Q. And you could work otherwise, let's say during the open
17 enrollment period of '21/'22, whenever you wanted; is that what
18 you're telling us?

19 A. Yes.

20 Q. Okay. So --

21 A. There is actually an agent, she's still with us. She was
22 with us during that time. And she never worked past 5:00. She
23 has a child, and she wanted to produce and maximize her time
24 until 5:00. She never stayed still 9:00. She very rarely
25 worked weekends. It -- it's what worked for her. We were not

1 obligated to work 9:00 to 9:00, but the space was available
2 from 9:00 to 9:00.

3 Q. Could you work, let's say, and get it inbound leads at
4 10 o'clock at night?

5 A. Well, there's also -- I know that there is a law that after
6 a certain time, we are not able to contact clients. So it just
7 wouldn't be -- I mean, you can't -- you are not going to call
8 the client at 10 o'clock at night for insurance.

9 Q. No. But most of your calls were inbound, weren't they?

10 A. I'm sorry?

11 Q. Most of your calls were inbound?

12 A. Most were.

13 Q. Okay. And when it is 9 o'clock in Florida, it is what,
14 like 7 or 8 o'clock in Texas?

15 A. 7:00 or 8:00, yes.

16 Q. And 7 or 8 o'clock in Illinois, right, they are behind us?

17 A. Exactly, I guess. More or less that time.

18 Q. And you were licensed to sell insurance in Texas and
19 Illinois for Blue Cross Blue Shield?

20 A. Yes, we were.

21 Q. So you couldn't work and get inbound leads at 10 or
22 11 o'clock at night during open enrollment, could you?

23 A. I never asked to. 9 o'clock worked for me. I mean,
24 perhaps if we would have asked, the space may have been open
25 longer. But I don't know. We never came across that

1 situation.

2 Q. It could have been there longer except for the fact that
3 Mr. Cortes's business in Colombia, Avant Assurance SAS, wasn't
4 sending leads after 9 p.m. Eastern Standard Time, were they?

5 A. I don't know the details of the Colombia team.

6 Q. But you --

7 A. I don't know if they could have gone longer or not.

8 Q. But you knew that you didn't get calls at the office,
9 inbound calls, after 9 p.m., right?

10 A. Based on what we all agreed upon, no one was there after
11 9:00.

12 MR. POLLOCK: Nothing further.

13 THE WITNESS: Thank you.

14 THE COURT: All right. Thank you, ma'am. You are
15 excused. You have a good day.

16 THE WITNESS: Thank you, you too.

17 (Witness excused.)

18 THE COURT: Next witness, please.

19 (Pause in proceedings.)

20 MR. TROPP: Defense rests, Judge.

21 THE COURT: I'm sorry?

22 MR. TROPP: We rest our case.

23 THE COURT: All right. Ladies and gentlemen, we will
24 take a brief morning recess. Please don't discuss the case.

25 COURT SECURITY OFFICER: All rise for the jury.

1 (The jury exited the courtroom at 10:25 a.m.)

2 THE COURT: Please be seated.

3 I'll hear any motions, or is there rebuttal? I don't
4 know.

5 MR. POLLOCK: We are not going to do rebuttal, Your
6 Honor. The Plaintiffs will renew all previous motions and
7 objections, including for a directed verdict.

8 THE COURT: Thank you.

9 Motions from Defense?

10 MR. TROPP: No, Judge.

11 THE COURT: All right. Motions are denied.

12 Ready to do your closing? We will take a ten-minute
13 recess.

14 MR. POLLOCK: There was a proposed instruction that
15 the Defense had sent over concerning the unclean hands. We
16 have our objections to that. I don't know if you're -- I just
17 need to reiterate those, but I am happy to do it. I think it's
18 their burden because they are asking for the instruction, so
19 I'll handle it in course, unless Your Honor wants me to make
20 the argument now.

21 MR. TROPP: There was a copy that I sent from the
22 earliest revised that had some red lines on it and then I tried
23 to clean that up and sent that one, Mr. Pollock.

24 (Pause in proceedings.)

25 MR. POLLOCK: I think we are just talking about that

1 paragraph. We still have the objection to the --

2 THE COURT: I'm sorry, can I see what the proposed
3 instruction is? You want to put it up on the ELMO or not?
4 Display it somehow?

5 MR. CUMMINGS: Your Honor, can Ms. Valiente be excused
6 to use the bathroom?

7 THE COURT: Yes, of course.

8 MR. CUETO: Ms. Gonzalez would like to use the
9 restroom, Your Honor.

10 THE COURT: Yes, sure.

11 (The exhibit was published to the Court.)

12 THE COURT: I'm sorry, did you understand me when I
13 spoke yesterday about the unclean hands defense and which of
14 the three claims it would go to?

15 MR. TROPP: Yes, on the equity.

16 THE COURT: The only equitable claim.

17 MR. TROPP: Unjust enrichment.

18 THE COURT: Unjust enrichment.

19 MR. TROPP: I might have to write.

20 THE COURT: But what you are showing me is a proposed
21 defense that goes to the FLSA claim.

22 MR. TROPP: I know.

23 THE COURT: All right.

24 (Pause in proceedings.)

25 THE COURT: All right. We will take our ten-minute

1 recess, we will hear the closing arguments and then if you want
2 to propose something, I can look at it at some point. But this
3 is not -- what you're showing me now is not acceptable.

4 MR. TROPP: There has been so many revisions.

5 THE COURT: I'm sorry?

6 MR. TROPP: There have been so many revisions, I might
7 have sent the wrong one. I can fix that up. Can I ask, Your
8 Honor, just considering we had planned to take the whole
9 afternoon with Reinier and Andrea, and we're resting early, you
10 think we can have a little bit more time before the closing
11 other than ten minutes?

12 THE COURT: We have jurors sitting in the back
13 waiting. How much time are you asking for?

14 MR. TROPP: Maybe an early lunch?

15 THE COURT: It's 10:30.

16 MR. TROPP: 10:30, yes. Half an hour, 20 minutes?

17 THE COURT: While you keep jurors waiting in the jury
18 room? I'll give you 15 minutes. I mean, they've already been
19 out for five minutes. We will take another 15.

20 MR. TROPP: Okay.

21 THE COURT: All right?

22 MR. POLLOCK: Your Honor, I would like to be able to
23 utilize instructions in my closing.

24 THE COURT: You can certainly reference instructions,
25 except for this one which is not -- I am not giving this that's

1 being proposed. So there is nothing else on the table. If you
2 want copies, Patricia can get you something.

3 MR. POLLOCK: I had the ones from yesterday, so I'm
4 going to work off of that.

5 THE COURT: Work off of that, certainly.

6 MR. POLLOCK: It's not an issue. And then go from
7 there.

8 THE COURT: Okay.

9 MR. POLLOCK: So I guess we have 15?

10 THE COURT: 15 minutes.

11 MR. POLLOCK: Perfect. Thanks, Judge.

12 COURT SECURITY OFFICER: All rise.

13 (A recess was taken from 10:33 a.m. to 10:51 a.m.)

14 COURT SECURITY OFFICER: All rise.

15 THE COURT: I believe Defense e-mailed a proposed
16 revised unclean hands defense instruction, which is not an
17 instruction on the law. There is no law stated there of what
18 unclean hands consists of. The theory that's written in the
19 instruction is not what was pled in the affirmative defense,
20 and it's replete with typographical and grammatical mistakes.
21 So I won't give that.

22 If you want to work on something else before I do
23 charge the jury, I will consider another submission.

24 Are we ready for the jury?

25 MR. POLLOCK: Yes, Your Honor.

1 THE COURT: Let's bring them in.

2 (The jury entered the courtroom at 10:52 a.m.)

3 THE COURT: Everyone, please be seated.

4 Ladies and gentlemen, as you have heard, the
5 Plaintiffs and the Defendants have rested. All that remains is
6 for the attorneys to present to you now their closing
7 arguments, for me to instruct you on the law and for you to
8 deliberate together and render a verdict.

9 I am going to ask you to close your notebooks and put
10 them aside, and put those pencils aside and not take any notes
11 during closing arguments.

12 As you recall, I did not have you take notes during
13 opening statements either, and that is because what the lawyers
14 say is not evidence in the case, only what the witnesses say.

15 And your notes should be limited to notes about the
16 evidence. However, having said that, please do listen
17 carefully to the attorney's arguments as they are intended to
18 go over each side's perspective on that which you saw and
19 heard, and also address some of the legal requirements on each
20 of the claims the Plaintiffs are asserting and any defenses
21 that the Defendants may have.

22 We will be hearing first from Plaintiff's counsel,
23 then from Defense counsel and Plaintiff's counsel has the
24 opportunity to return and give a brief rebuttal close.

25 Mr. Pollock.

CLOSING ARGUMENT ON BEHALF OF THE PLAINTIFFS

MR. POLLOCK: The civil jury trial, it's kind of a dying animal. We don't get them that often as lawyers. The courts don't get them that often. And so when we, as the lawyers, have an opportunity to have a trial, we appreciate that. It's -- it's a phenomenal opportunity that comes from hard work in preparation, and it comes with sacrifice. And I said this in my opening, and I make it in my closing as well, that we appreciate you taking time out of your lives to be the most important part of our civil jury trial process, because there was a lot of hard work put in by everybody in the courtroom and the sacrifices that we all made.

Her honor has been working late and here early so that we could come in and handle issues that we didn't have to bother you with, and this has gone on since August of last year when we filed this lawsuit. And so I -- I give you this context so you can understand our true appreciation for your service.

And this is the opportunity, and I will have another opportunity at the end, so I am not going to do -- say the same thing twice and I am not going to prolong anything more than I have to, but there is two ways to do this, and that's how you saw in my examinations, how when we direct a client, right, when we put them on the stand, the person who goes first, goes first; the person responds and then you get the last word, and

1 so I am going to get the last word. So I'm going to save some
2 of my comments for then.

3 But what I want to do now is talk about what the
4 evidence showed, right, and what you heard. Because this is a
5 civil trial, and you are going to hear about the burden in a
6 civil trial and what we have to prove and what -- in order to
7 win our case.

8 And the major distinction that you are going to have
9 in your minds is the difference between a civil trial and a
10 jury trial and the burden of proof. The other distinction is
11 that it's what the evidence is in our trial. And so the
12 evidence is what you heard and what you saw, and you are going
13 to hear instructions on that, and maybe even take them back to
14 the jury room with you.

15 So that's our burden. And then there's the evidence.
16 And so you take the evidence, you weigh it against the burden
17 and you come to your decision. And the evidence in the case,
18 except for Ms. Guerra and her testimony today, was all from us.
19 This isn't a criminal case where you get to just deny and we
20 have to prove everything and we have got to prove it in a
21 wrestling match where we have to pin you. That's not the case.
22 We don't have to pin them down. We don't have to prove our
23 case beyond a reasonable doubt.

24 And you are going to hear about our burden, which is
25 just slightly tipping the scales, but more importantly, it's

1 about the evidence and that's how you decide cases.

2 What's the evidence? Who is telling the truth? Who
3 is not telling the truth? What's the motivation behind this?
4 What's an important fact, and what's something that's really a
5 distraction, it's irrelevant?

6 And so we had my clients who all came before you, and
7 Toussaint and I met with them beforehand so that we could make
8 this as quick as we possibly could. And I understand that it
9 took a little bit longer with Mariana and with Rafaela because
10 there's certain facts that we need to get into evidence through
11 their testimony. And then since we have them in evidence, we
12 didn't need to do it again with Carlos and with Delio. So
13 those were much shorter. But we got those facts into evidence
14 through their testimony.

15 What you didn't hear was Mr. Cortes come forward or
16 Ms. Gonzalez Quintero come forward, after having prepared with
17 their lawyers, and tell you their truth. And I don't think
18 that's because they're afraid of me. I'm not going to beat
19 them up. You know, I'm a lawyer. I'm not the best lawyer in
20 town, but. So they are not afraid of me, so why didn't they
21 come up? What are they afraid of?

22 What they are afraid of isn't me, it's not my clients.
23 You know, we are here in trial. Why they didn't go on the
24 stand is because they're afraid of the truth. They're afraid
25 of the truth coming out, and if they had got on the stand, that

1 truth was coming out.

2 And I think already the truth has already come out in
3 this case. And, you know, sometimes I refer back to what I
4 said in opening, but I think today it's -- at least for now,
5 it's important to talk about what Mr. Tropp said in opening
6 about the truth, and I wrote them down and I put quotes on
7 them.

8 He said, The truth doesn't change and the truth is
9 simple. There's a lot of things we disagree with, but I'm
10 telling you now, I totally agree, the truth don't change and
11 the truth is simple.

12 He said that Mr. Cortes and his wife, quote, taught
13 them how to make money. Totally agree. Then I think we get
14 into some things that it's not a matter of what I agree with or
15 what my clients agree with or not, but what the evidence
16 showed. And one of the things that Mr. Tropp said in his
17 opening, that Mr. Cortes said on the stand, was that my clients
18 never complained about overtime or bonuses or commissions.

19 And I won't get into the different complaints and
20 whether you need to believe my clients or not, or whether you
21 just want to believe the documents. Because by now, you know,
22 there should be no doubt in your mind, even if that's not the
23 standard, the overwhelming evidence in this case is that my
24 clients, although they were classified by the Defendants as
25 independent contractors, although they were issued 1099s by the

1 Defendants, doesn't mean that they were independent
2 contractors.

3 And so the terms 1099 and W-2, you know what they have
4 to do with whether somebody is an employee or an independent
5 contractor under the Fair Labor Standards Act to be entitled to
6 overtime? You know what has to do with that? Nothing.
7 Because if it did, when you see the jury instructions, you will
8 have seen that's one of the factors that it's -- this is how
9 they are paid. And one of the factors also involves who issues
10 those documents, right. What control do my clients have over
11 how those documents were issued?

12 And as my clients testified, if they were given --
13 Carlos testified if he was given a W-9 -- excuse me. If he was
14 given a W-4, he'd sign it. If he was given a W-9, he'd sign
15 it. Whatever your employer gives you for tax purposes so you
16 can report your income, you're going to sign it, and they did.

17 What really matters is what you heard and what are the
18 realities of all this. I mean, you heard Ms. -- Ms. Guerra
19 testify that she was -- she put the scale -- you know, on the
20 scale, and she was almost all dependent on my -- on the
21 Defendants.

22 So what you heard was that Mr. Cortes opened his
23 company in 2020 before open enrollment, he paid everybody as an
24 independent contractor and he did this so he could save on
25 operational expenses. I mean, I don't know how you run an

1 entire company with all independent contractors who do the most
2 important part of your business, which is selling insurance,
3 but, hey, that's what he did.

4 So what we have is the evidence in the case where
5 Mariana got up and told you: This is where I go to work. This
6 is when they told me to work. This is what I did. This is
7 where I did it. They trained me on how I did it because before
8 I got there, I had no experience. I had an insurance license,
9 that's it. And by the way, she studied for two weeks to get
10 the license and she got it, and she started working and she
11 made a sale the first day.

12 Carlos, who was in the process of getting his health
13 insurance license because his sister inspired him, he got
14 there, he made a sale on the first day, listened to other
15 agents, Oh, that's how you make a sale.

16 You heard Ms. Guerra, you know, there's a lot of
17 clients who don't pay anything because of their income, and
18 they qualify for subsidized health insurance. How hard is it
19 to make a sale when somebody's on the phone with you because
20 they called in to a call center, call center transfers to you,
21 you're basically another call center, and says, Hey, I would
22 like insurance and I don't want to pay for it. No problem, you
23 qualify. Okay, great. Pick from these. Which one do you
24 want?

25 Sales took how long? You heard from my clients, you

1 know, a couple minutes. Mr. Tropp was asking questions, you
2 know, it could take hours, it could take hours. Is there
3 anybody who'd ever came in the courtroom and said, Yeah, it
4 took me hours to make a sale? You heard the evidence. There
5 wasn't a single person who came in and said, Yeah, it took me
6 hours to make a sale.

7 Mr. Cortes, you know, he testified. You know, one of
8 the things you can remember and you can think about is, you
9 know, how many times did Mr. Cortes -- asked me a question --
10 to ask it a different way, or accused me of putting words in
11 his mouth? How many times did his testimony change in front of
12 you where he said one thing in the deposition, and then we
13 brought it out, went through that whole process, it's the same
14 truth. So if you are sitting in the courtroom, he said this
15 back then.

16 It's like Mr. Cortes came to you and said,
17 Mr. Pollock, because he addressed me like that when he didn't
18 like the question or he didn't like the answer, he didn't like
19 where it was going. Mr. Pollock, that's not what I said. You
20 misquoted me. Mr. Pollock, I have a reason for that. There is
21 a reason I changed my answer so that it's better for me now in
22 front of the jury in a federal courtroom. There's a reason for
23 all this.

24 The reason is because the truth is simple. The truth
25 doesn't change, and the truth of the matter is that my clients,

Delio Batista, et al., v. Avant Assurance, Inc., 22-cv-22671-CMA

1 and as you heard, the Defendants, had no training about what's
2 an independent contractor or what's an employee because if they
3 all agreed, guess what? We wouldn't be here. They had no
4 idea.

5 Independent contractor, it's cheaper. Okay, cool.
6 New business, great. Save money, independent contractor. We
7 don't have to pay a bunch of stuff. Don't have to pay Work
8 Comp. We don't have to pay social security taxes. We don't
9 have to take off withholding. We don't have to deal with any
10 of this back office stuff. We don't have to have these
11 expenses. We are spending enough money on computers and
12 software and office space and buying leads.

13 And, you know, Mr. Cortes has his business in Colombia
14 with all these call center agents. Why? Because my clients
15 were walking into basically a call center and they sat down at
16 a workstation and they worked on a computer and they put on a
17 headset. To get a call, they clicked a mouse, answer the phone
18 from the client that was provided to them, sell the insurance
19 in three to five minutes and it is like Jeopardy, you hit the
20 mouse instead of clicking the buzzer, answer. That's how you
21 the decide who is going to pick it up.

22 There's no skills -- there's definitely skills
23 involved, and I am not minimizing that. There are skills
24 involved in selling. There's skills involved in understanding
25 and knowing people. I am not denying that those are skills.

1 The question is, are they specialized skills.

2 It takes skills to stand up in front of you and try to
3 convince you; that's my job. But I went to law school, I
4 trained for this. That's why lawyers are professionals.

5 And the insurance agent license, it was online.
6 Mariana sat in the office, took the course online for two
7 weeks, she passed the exam and that was it. She started
8 selling.

9 My clients didn't work anywhere else. They couldn't
10 work anywhere else. Yeah, they can have side jobs. I mean, it
11 is not like Rafaela who was testifying, Yeah, you know, I had
12 some supplemental insurance I was selling. You didn't hear
13 the -- like, she took off three weeks and she was taking off
14 days at a time. You heard Rafaela say, It was on the weekend,
15 it was after hours. I mean, why not go and bar tend after 9
16 p.m.? It means that they are hard workers. It doesn't mean
17 they are independent contractors.

18 I mean, the test in this case isn't how hard you work.
19 The test in this case isn't how much money did you make because
20 you are going to get -- you heard from Mariana; she said, I
21 worked really hard. I have a family. I had sacrifices I had
22 to make to work from 9:00 in the morning to 9:00 in the evening
23 in November through January. Leading up to Thanksgiving,
24 leading up to Christmas, into Christmas and New Year's.

25 All this time. We'd love that time with our families,

1 but if you have a chance to make money, you are going to make a
2 sacrifice. Why? Because that sacrifice is going to pay off.
3 Does that mean that because we sacrifice and work really hard,
4 that changes us from an employee to an independent contractor?
5 No. It means that we work hard and we're given an opportunity
6 to make a profit. You didn't hear anybody say, Hey, I lost
7 money today. You didn't hear Mr. Tropp say, I could drive to
8 work and they would lose all this money from driving to work.

9 You all know that the time and money spent getting to
10 work is not what you put on your taxes, it is not a loss. I
11 mean, does it make sense that every agent would decide, Yeah, I
12 think it is more convenient for me to just work out of the
13 office today and tomorrow and the next day and every day? Does
14 that make any sense? I mean, if this was a hybrid job or this
15 was a remote job, my clients could have worked at home.

16 And by the way, even if they had a computer and a
17 headset and monitors, would that have made them independent
18 contractors? I mean, you can still be an employee and be a
19 remote employee.

20 I am going to pause for now, and I will come back in a
21 couple of minutes. Thank you.

22 THE COURT: Defense counsel.

23 MR. TROPP: Hello, ladies and gentlemen.

24 THE COURT: I'm sorry, you need a microphone,
25 Mr. Tropp.

Delio Batista, et al., v. Avant Assurance, Inc., 22-cv-22671-CMA

1 MR. TROPP: Yes.

2 CLOSING ARGUMENT ON BEHALF OF THE DEFENDANT

3 MR. TROPP: Okay. Start again. Hello, everyone. And
4 you have probably figured out by now, sometimes I can be a
5 little quirky. The other day if you ever -- I hadn't had my
6 best day with the technology; I hope you don't use that against
7 me. I have my moments, good and bad. I hope -- does everyone
8 understand me?

9 THE JURY: Yes.

10 MR. TROPP: If you don't understand, raise your hand,
11 or want me to repeat something, speak slower. I want to make
12 sure everyone understands.

13 Okay. So first of all, big point about this is they
14 brought a lawsuit. And you are going to hear the Judge's
15 instructions, and they have the burden of proof. We don't have
16 to prove their case. We didn't bring the suit here. And if
17 there was a decision for Reinier or his wife not to testify,
18 that would be a strategic decision. That wouldn't be on them.
19 It doesn't mean anything.

20 Reinier came up and -- I mean, this has been painful
21 these last three days. I mean, I would say for every ten
22 minutes that we presented evidence, they probably presented an
23 hour of that -- of theirs. And the first day, first witness
24 they called, we spent about two, three hours on Reinier. And I
25 mean, Reinier answered every question. He never, like, tried

1 to avert the question, or he was never evasive. He answered
2 the questions. He answered them truthfully.

3 What else were -- were we going to bring him up again
4 today to go -- to rehash the same thing that Plaintiff was
5 unable to show for three hours the other day? What would be
6 the purpose of that? We don't have that burden. We don't --
7 what more could we -- we -- bring them up to rehash everything,
8 would that help to keep you guys another three hours listening
9 to this, for me to question Reinier over the same stuff that
10 we'd all heard on -- on -- on Monday? Or him saying that he
11 paid all the commissions, he paid all the bonuses, there was
12 never an agreement about the overtime. And then to have
13 Mr. Pollock question him again over the same things and then
14 look at you while he's asking him the questions, what would be
15 the purpose of that?

16 We don't have to do that. That's not our burden. And
17 -- and for -- there shouldn't be any inference or -- or you
18 shouldn't take that into any consideration him not coming
19 forward. We had no obligation.

20 He's proven beyond every standard what he had to prove
21 and show. He went through the whole cross-examination and --
22 and -- and that's a big point, that just because we didn't call
23 him today, we thought, we got enough. We have enough to put it
24 in your hands. We trust that you -- that you, the jury, are
25 going to come to the right conclusion to find the truth.

1 Now, I said at the beginning, that's true, that the
2 truth stays the same. They said that they weren't allowed --
3 that the agents were not allowed to work for other companies.
4 And even Delio said, Yeah, we were not allowed to work for
5 other companies. But then, you know, a little bit during the
6 questioning, he admitted, oh, he's selling other insurances.
7 He was working for other companies. He had 1099s with this
8 concierge company. Everyone did.

9 Rafaela was selling life insurance. You don't have to
10 do it. You heard Katrina today say that she was working for
11 other companies; they don't care. These are professionals.
12 They have -- they are licensed professionals. I mean, you, the
13 jury, know Miami, like I talked about earlier, you know the job
14 market out here. Go try to find -- if you find an insurance
15 job, insurance agents work on commissions. It is not an hourly
16 job. You work -- if you want to work two hours, you're gonna
17 make a little money. It's your choice. That's what makes you
18 an independent contractor.

19 And that was the whole point. What, we are going to
20 bring Reinier up to say the same thing we've been saying from
21 day one? These people were independent contractors. They are
22 licensed professionals. They sold insurance policies based on
23 sales like every insurance agent. It is not a wage and hour
24 case. It's not an FLSA case. Those numbers, I mean -- I -- I
25 can't -- I can't say that I assume that I know what you are all

1 thinking. I certainly have no idea how they came up with those
2 numbers. They are making them up. They're making them up as
3 they go along.

4 On top of that, when I said the truth doesn't change,
5 these -- these Plaintiffs continue working for months, never
6 send an e-mail or say, I'm owed commissions, I'm owed overtime,
7 I'm owed wages.

8 And then even up until the month before I took their
9 -- you heard me ask questions about what -- I was trying to
10 figure out, what is owed to you? What was owed? What was not
11 paid to you? At one point, Delio said -- I think he said
12 15,000 and then he says 35,000. They are coming up with these
13 numbers that are just invented, and they can't just do that.
14 They have to -- they have the burden of proof. They have to
15 show what was not paid, what they didn't get.

16 And -- and -- like, it's just human behavior. If
17 people are owed -- if someone's owed \$25,000 because -- back a
18 year and a half ago, they are owed \$25,000 and they're owed a
19 bonus, what's the behavior? You want it. You write letters,
20 you write an e-mail, you ask for it. You don't continue
21 working for a place for months, never bring it up and then all
22 of a sudden file a lawsuit and ask for all this stuff and then
23 come up -- like literally yesterday come up with numbers never
24 seen before, never requested or asked for.

25 But the part that I find most offensive is this is --

1 this is a free country, and we all -- like this idea of
2 control, that these people are being controlled. You could
3 always walk away. No one is being controlled here. You don't
4 have to take the job.

5 But most importantly, the first thing that when people
6 get a job, you want to -- you sit down and you say, What do I
7 get? What do you get? What do I get? Oh, I get this salary
8 and I get that much. It was based on -- the agreement is, you
9 sell these policies, you get paid for this policy, you get \$35,
10 \$15, \$5; if you sell a 1,500 of them, you get these bonuses.
11 You say, Oh, okay. And the harder you work, the more money you
12 get. That's the agreement.

13 This idea that you could come later on after you have
14 this agreement and you come in a court of law and say, Okay,
15 let me come up with these numbers and let's get a -- let's
16 figure out what my hourly is based on -- my hourly is going to
17 be higher because you paid me more money and then we'll divide
18 it with this -- these calculations that they are making up as
19 they go along.

20 Yeah, they have a right to do it. They could ask for
21 anything. They could ask for a million dollars or what have
22 you. They can come up with these formulas, but it's you who
23 decides. You know how things work. You can't make an
24 agreement with somebody. If I ask you, Hey, work for me, do
25 this thing for me and then later on come back and say, Oh, for

1 all the hours I worked, I want 120 or \$110 an hour; that was
2 part of the agreement? It was never part of the agreement.

3 So the most important part of this, before you go and
4 deliberate -- we are almost there, we are almost at the finish
5 line, thank God -- is you are going to hear instructions from
6 the Judge, and again, I am not here to distract you, I am
7 trying to make this simple for you.

8 There's going to be, like, long instructions about the
9 FLSA and the wages and how to calculate, but in every section,
10 it is going to say -- like, the part about recordkeeping, the
11 whole section on that, they'll say that if you find that they
12 are independent contractors, the employer has no obligation to
13 record keep and keep all the records or records of time for an
14 independent contractor.

15 And all the sections regarding wages and overtime and
16 everything, it's always the employer. You will see employee,
17 employer, employee and all these determinations. But the first
18 question you are going to be asked is you're -- you're going to
19 determine were they employees or independent contractors?

20 And if you find that they're -- which they are
21 independent contractors and not employees, none of that
22 applies. None of that applies, and that will take out, like,
23 half of the whole process. Make it really simple. Then you
24 get to the contract claim, you are saying -- which is what this
25 is really about. They're saying, Oh, there's a contract here;

1 I wasn't paid X for that.

2 But the decision to not call Reinier today, why would
3 we? They have to show, they have to prove I wasn't paid for
4 this bonus, I wasn't paid for this commission.

5 I can't -- there was -- you can't point to one
6 commission. They can't say, Okay, this commission I was not
7 paid for, or this \$35 Ambetter thing I sold in 2020, not one.
8 They just come up with these numbers that the attorney was
9 putting together as they're testifying.

10 And then when I asked Delio without those numbers, I
11 said, How do you come up with a formula? He had no idea. He
12 had no idea. He says 35, last month he said 15. And then I
13 asked him, How -- you are claiming this \$25,000 bonus for
14 making 600 -- 600 people that you signed up for the Oscar
15 program. He says, Yes, I made those 600 people. Never
16 mentions it to anybody, never brags about it. Never says,
17 like, Oh, I got the \$25,000 bonus.

18 Last month in deposition you heard he said, I have no
19 proof of the 600 people, and he didn't have any proof yesterday
20 either. They are making this up. They are making this up as
21 they go along. They're independent contractors.

22 And they try to like -- and I get it, that -- that we
23 are not supposed to, like, label and you have to determine
24 through the economic reality test, like the degree of control
25 that -- and -- and I wish, we should, I -- if it was up -- you

1 know, I think that the best way to determine whether somebody
2 is an independent contractor or not is based on their taxes.
3 Are you a W-2 employee where the employer could tell you what
4 to do, when to come in, have all this control, which they did
5 switch to because of this after this. Or are you an
6 independent contractor? And they -- and we can't just go by
7 that, and I get that. We wish we could. It should be easy.

8 Because they're filing taxes saying they are
9 independent contractors and they are coming in and blaming him
10 for that. Rafaela was taking deductions for her computer and
11 car and everything, saying she is an independent contractor.
12 She never sent something to the government saying, Oh, no, I am
13 not a independent contractor. No. In fact, they set up their
14 own corporations that -- that technically they're working for,
15 that they're saying that they're self-employed by. They have
16 their own companies. They pay their own taxes. It is a
17 benefit for them not having your employer take your taxes.
18 They have deductions. They are not showing their tax records
19 here today or this week, but they're -- they're claiming to be
20 independent contractors with the government and then come in
21 here and say, Oh, no, I am not a independent contractor, you
22 misclassified me.

23 They knew from day one they were going to be
24 independent contractors. They were told that they had these
25 work schedules that they were ordered to do. No, the agents

1 came up with those work schedules themselves and the days that
2 they were allotted. It would be like an infringement. You
3 can't -- if an agent showed up on somebody else's day, taking
4 up his leads, that would be, like, improper. It would be --
5 like, the other agent would be like, What are you doing? This
6 is my day.

7 And you heard that there was another agent that left
8 at 5:00 to take care of her kids. You saw those work schedules
9 where a couple of days Carlos was off and Delio was off. They
10 would -- they would figure that out between themselves.

11 The whole idea of the whole hiring and this whole
12 program is Reinier and his wife set up a system where you have
13 an opportunity for profit or loss based on how much work you
14 do. You want to make more money. You are not stuck in some
15 job getting minimum wage where you got no opportunity for
16 growth, no opportunity to move anywhere. No. They had -- they
17 had that opportunity. That was the whole beauty of being an
18 independent contractor.

19 So I'm not saying for you to, like, completely base
20 your decision on the fact that they all had their own companies
21 that they were working for, they filed the LLCs, they put
22 themselves out to the government and they signed their IRS
23 forms saying that this is all true and correct, that this is
24 their companies.

25 MR. POLLOCK: Objection, that's not in evidence, Your

1 Honor.

2 THE COURT: The jury will rely on its recollection of
3 the testimony and evidence presented. Overruled.

4 MR. TROPP: That -- that they held themselves out as
5 independent contractors, took their deductions. They got to
6 keep -- they got to not have the employer pay their taxes; yet
7 they took on that responsibility themselves. You know, at one
8 point Delio said, Well -- they go, Oh, I set up my company --
9 because they blame him for that -- and I became an independent
10 contractor because of Reinier. I mean, take a little
11 responsibility, please.

12 You got the money. I assume that they paid their
13 taxes like we all do. They held themselves out as independent
14 contractors; they were hired as independent contractors. This
15 is an independent contractor job.

16 Part of the factors -- the key factors that you will
17 go through is -- like, five key factors which is a -- that you
18 are going to be asked to decide were they employees or
19 independent contractors? And to determine that, you are going
20 to look at the economic realities of the entire relationship of
21 the parties. The idea is that you are supposed to take
22 everything, the totality of the circumstances, take everything
23 into consideration. And only a jury can really make that
24 decision.

25 Employee, under control, or independent contractors,

1 and who controlled the Plaintiffs' work? And it says that an
2 employee has a right to control the employee's work to set the
3 means and manner, hours and work to be done, set the hours.
4 Wherein in contrast, an independent contractor must accomplish
5 certain work assignments within the desired time the details,
6 means and manner by which the contract completes them are
7 determined by them, using special skills to perform that type
8 of work.

9 So they're told, Go out, sign up people. People are
10 going to be coming in in droves. It's a great opportunity for
11 them. Instead of going out like Rafaela would do and try to
12 find people on the street or what have you. You get a bunch of
13 people needing health insurance, that's what they provided to
14 people.

15 And these people got the leads similar to -- an
16 analogy is like -- it is like Uber. Uber sends the people who
17 need a ride. And yeah, Mr. Pollock made this thing, Well,
18 where's the car? They're -- they're the car. People need a
19 transportation. You have got Uber drivers who drive their car.
20 But this is -- what service is being offered? Insurance. So
21 they're -- these Plaintiffs, these contractors themselves are
22 like the car, like a Uber.

23 Yeah, Avant gave them the customers and they had to
24 close it using their -- themselves mostly. Yeah, you needed a
25 -- you needed a computer; you could use your own laptop. If

1 they ask for access to the system, they were giving it to them.
2 You heard that any time they asked for access, if Carlos needed
3 to go to Colombia, sure, no problem. Because the whole idea is
4 the more money they make, the more money he makes. That's the
5 idea behind the commission job. That's sales. It is a sales
6 job, it's not a hourly job.

7 At one point -- okay. And then the other -- how --
8 how they were paid, that's another factor. Were they -- were
9 they paid piecework, commission basis? An employer's usually
10 provides vacation or sick time, insurance, retirement, other
11 fringe benefits. That wasn't the case here. And an
12 independent contractor is ordinarily paid an agreed or set
13 amount or according to an agreed formula.

14 If you read and if you see the instructions that the
15 Judge is going to give you on all these economic reality tests,
16 and every sentence is going to say, what is the difference
17 between an employee and an independent contractor? You are
18 going to see conclusively, they're independent contractors.
19 And the risk involved, the profit or faces the risk of loss.

20 So an employee has a predetermined rate, has no risk
21 of loss, has social security taxes paid by the employer. That
22 was not the case here. The big aspect about the profit and
23 loss is, yeah, some people have jobs that are dead-end jobs and
24 they have no opportunity to move or go up or down; they get the
25 same amount, no matter what they do.

1 Here, they have every opportunity to make more money
2 or lose money based on themselves and their time and the hours
3 that they worked. They -- it's not that they were suffered or
4 forced to work, they chose to do it.

5 The big thing that the -- that Mr. Pollock's going to
6 talk about and, yeah, if you look at it like a carpenter,
7 carpenter needs his own tools, a plumber needs his own tools.
8 But not -- you know, like lawyers, they are independent
9 contractors. What do you need? We need to talk. We need
10 ourselves. A doctor is an independent contractor. Yeah, maybe
11 he needs the hospital or -- but, you know, or -- these are
12 professionals, they need themselves to tell you or help you get
13 a policy.

14 It's not a tool based industry. It's not about the
15 tools. And the tools, they could use their own tools. It
16 wasn't -- the computer, a DS L, I mean, this concept that like
17 if Reinier or Avant said, Okay, you come, get our leads, but
18 you have got to bring your own computer, otherwise you --
19 otherwise you might -- you know, someone's gonna make a wage
20 and hour claim and you have to bring your own towers. No.
21 They provided that to help. Somebody could have brought their
22 own, like, monitor or they brought their own mouses or the
23 headphones, those are big things. They can use the telephone,
24 they could use their head phones talking to people. It's not a
25 big tool factor.

1 Independent contractors offer their services to the
2 public or others in particular industries and have procured
3 necessary licenses for performing their services. That's what
4 this is about. That's -- these definitions. It's not about
5 whether we bring Reinier up today and have you listen to this
6 whole gambit for another four hours, looking at these Excel
7 sheets that will make you dizzy and looking at these, like,
8 calculations that are, like, just made up and make no sense.

9 That's the ultimate question that they have to prove.
10 When you hear the instructions, it will say independent
11 contractors have procured necessary license for performing
12 their services.

13 Employees ordinarily work for only one or just a few
14 employers and do not have business names or listings. And
15 ultimately, what's the party's intent, is the sixth factor.
16 The intent is always important, but the description, the
17 parties themselves is not controlling, the substance over form.

18 So that's why I reiterate, yeah, I'm -- I wish it
19 would just -- like they classified themselves as independent
20 contractors, they agreed. They take this job saying, I'm an
21 independent contractor, I get the flexibility, that was the
22 intent. That's the most important.

23 What was the intention? And I -- I -- I say to you
24 that when they come up here -- when they came in front of you
25 and looked at you and said, Oh, yeah, I was an employee, I'm

1 not an independent contractor, that goes to truth. That's not
2 true.

3 They knew they were independent contractors. They are
4 holding themselves out as independent contractors. For them to
5 say, Oh, no, I'm an employee now, let's change it. Let's come
6 up with these, frankly, like -- gobbledygook for rec- -- for,
7 like, coming up with calculations as to why they are owed these
8 numbers, it doesn't -- it's beyond the pale. I hope you see it
9 that way.

10 A big aspect I remember, Mariana made a few points
11 that -- that she said that \$36,000 was owed to her in
12 commissions. And I was like, Where did that come from? We
13 never heard that before, didn't mention that earlier. She
14 said, Oh, I wrote a letter. I sent it by U.S. mail to him.
15 U.S. mail. And I sent a copy to my attorney.

16 \$36,000. I said, Well, where is it? I would love to
17 see that. She sent a letter saying that she's owed \$36,000
18 that she sent by U.S. mail. We never got that. Oh, well, she
19 got it. I sent it to my attorneys. Where is that? It was
20 never sent to her attorney; that was a lie.

21 And then she did say, Well, it was for 5500. I mean,
22 is that -- that's a lot of money. I don't know about you, but
23 that's a lot of money for me. That's a big difference. Well,
24 where's that letter for the 5500? You think that's, like,
25 behavior conducive with the truth? People are owed money and

1 they write letters? They came in front of you. She said she
2 sent this letter out. There was never any letter for 36,000,
3 and for the 5500. It was untrue.

4 Rafaela said, Oh, yeah, I worked 12 hours a day, 12
5 hours a day for this open enrollment period. She was out --
6 she was out working at a warehouse for 20 days. Oh, yeah. She
7 says, Okay, you got me. I mean, God bless her, but I couldn't
8 even be mad, you know. I was like, Okay, that's okay with me
9 if that's okay with you.

10 She said she worked 12 hours a day for this whole
11 period, and we went through this whole calculation, which is
12 mind numbing with a whole filling out of the -- like they came
13 up with every insurance policy, how much to come up with per
14 hour or what have you. Oh, yeah, 20 days, which it was
15 actually more than 20 days, but 20 days. She wasn't there for
16 almost all of January, that whole month. And then she says,
17 Oh, yeah, in November I did go out to -- out of the country to
18 sell my mom's house and to Cuba and then to Jamaica for three
19 days. That was untrue. I mean, she didn't work. She said she
20 worked 12 hours a day for those 13 weeks, half of it not even
21 here.

22 And then -- and then Delio says, Oh, yeah, we weren't
23 allowed to work for other people. And he goes, Oh, yeah, yeah,
24 I worked for this -- I was selling insurance for this other
25 company that I got a 1099 for. Oh, yeah. But -- but it was

1 just -- then he says -- makes the point, But -- I said, Well,
2 what about for the association of the concierge that you were
3 getting paid for and got a 1099 for? Oh, yeah, but that
4 wasn't -- that wasn't for ins- -- like -- like, that's.

5 The point was, they were saying they couldn't work for
6 somebody else, which is a huge part of this. When an employer
7 tells you, You can't work for somebody, you can't work for
8 somebody else. They were all working for other people.

9 Another thing is Delio Batista. Talk about being
10 evasive. I am sure you saw it, how somebody answers a
11 question. Did they answer the question directly and avoid the
12 answer? I mean, the guy didn't answer a single question.
13 Every question went like this and like that, but he didn't --
14 the answers that ultimately came out, working for other people,
15 working for other companies.

16 He said that he worked this whole open enrollment 12
17 hours a day when there wasn't even an enrollment period because
18 of COVID. He got caught in that one; that was a big one.

19 Go through all of them. There is not -- we didn't
20 bring Reinier up today because he answered all his questions.
21 What else is there to bring? He said, Here is the payments,
22 this is what was paid. He sent out the text 1099s, the tax
23 information. Carlos, he worked seven months; he got a total
24 of, like, 72,000. That's why I figured out if you did the
25 math, divide it by the time he worked there, came out to over

1 10,000 a month. All of them were making bank over there,
2 making a lot of money.

3 There was never any gaps where they were getting paid
4 below minimum wage or not getting money. And out of the
5 goodness of his heart, he didn't have to, but he would give
6 advances to people, make sure that they didn't go without money
7 because he was trying to develop these relationships.

8 Another thing is, Delio even testified to it, that he
9 was asked to come in to do this open enrollment period for the
10 three-month period. There was nothing about permanency. No
11 permanency aspects of this job.

12 I don't want to lose you. I feel like I might be
13 losing you, so I'll -- I'll -- I'll stop now and I think,
14 Mr. Pollock is going to address you.

15 We are almost there. We are almost at the finish.
16 Thank you.

17 MR. POLLOCK: Your Honor, can I get commiserate time
18 as well?

19 THE COURT: I'm sorry?

20 MR. POLLOCK: Can I get commiserate time as well?

21 THE COURT: Yes. Rebuttal.

22 MR. POLLOCK: Thank you, Your Honor.

23 REBUTTAL ARGUMENT ON BEHALF OF THE PLAINTIFFS

24 MR. POLLOCK: So it's -- it's pretty cool when, you
25 know, the other side comes up and says, You guys are right.

1 And -- I mean, I was blown away when Mr. Tropp got up here and
2 said, Yeah, our agents are paid as employees now because of
3 your lawsuit. It's like the old saying, if it ain't broke,
4 don't fix it.

5 But if it is, you don't want a problem with your other
6 agents coming in and suing you for overtime. No explanation as
7 to why, but that's what he said. Not my words. I mean, I'm
8 glad he said it, but those are his words.

9 I don't know how you come back off that one, but it's
10 a good effort.

11 Can I get the Elmo, please -- I mean the HDMI?

12 THE COURT REPORTER: It's on.

13 MR. POLLOCK: Okay, thank you.

14 Let's just, you know, drive on and try to make it kind
15 of interesting, because we are all used to looking at
16 everything on our phones and visual, and so I am kind of a
17 visual guy.

18 So the evidence proved that my clients are owed wages,
19 they are owed overtime and they are owed the commissions and
20 bonuses. And the Defendants didn't pay taxes, social security,
21 Work Comp. premiums, and they didn't do it to save money, just
22 like they didn't pay overtime to save money. And they didn't
23 pay all the commissions and they didn't pay all the bonuses to
24 their employees so that they could save money and keep it for
25 themselves.

1 But, you know, this evidence -- and I'll go through
2 what the -- the jury instructions. But my clients were
3 employees. They got everything that they needed, including the
4 back office support. They were told what insurance to sell and
5 how to sell it and where to sell it and everything. And the
6 Defendants, all of them, Mr. Cortes, his wife, they controlled
7 everything. They had -- they had cameras. They had call
8 center managers. I mean, you don't manage independent
9 contractors. You let them do whatever the heck they want to do
10 when they want to do it. Could earn business for themselves,
11 and they are not dependent on any one person.

12 But they supervised everything, and they controlled
13 all of the work, when to work, where to work, the permission,
14 what to sell, how to sell it, who to sell it, how much you are
15 going to get paid on commissions. It's not like my clients
16 could negotiate a different price. They couldn't negotiate how
17 much they were going to get per sale.

18 This is a preprinted commission statement, here it is,
19 take it or leave it. Okay, we'll take it. That's the
20 agreement we are going to work under, claiming that's a
21 contract. You don't hear anybody on the other side saying, No,
22 that's not a contract. Mr. Cortes says it's a contract. You
23 heard Ms. Guerra say, Yeah, that's how I worked. That's the
24 basis of the commissions and bonuses. And so they had complete
25 control over everything my clients did.

1 And what Mr. Cortes said that my clients needed to
2 bring, and I asked him about it, I cross-examined him, he
3 testified that they needed their voice, their computer skills
4 and be able to type. That's it. There is no special skills
5 needed to do this job.

6 And now they pay their other agents as employees. The
7 only difference is we called them out on it in court and then
8 they changed.

9 So the evidence showed that Avant Assurance employed
10 my clients. Reinier Cortes employed them and so did
11 Ms. Gonzalez Quintero. I mean, Mr. Cortes is the boss.

12 You never got any -- anybody complained, but you have
13 Carlos sending his statements over, you've got the e-mails from
14 Rafa, but yet nobody complained? They all complained. In
15 fact, Carlos sent over his spreadsheets and there's a -- you
16 know, and the reason why nobody made that much of a big deal
17 about it is because what do you do when your employer's got
18 \$5,000 of your money and you complain and nothing happens? And
19 then it builds to 10,000, and then it's 15-, and you're like,
20 Well, he keeps saying, you know, we will talk about it. He
21 keeps saying he's going to pay me. If I piss him off and he
22 fires me, then what do I do?

23 And so in 2020, in May, you heard Carlos, Mr. Cortes
24 gets a house, he gets a car, he moved into a new office. What
25 do you think happened to the money? And I said, you know, this

1 is like the Wizard of Oz. Then you got Mr. Cortes and he's,
2 you know, in his office and he is the one who has the
3 spreadsheets and he's the one who's determining how much every
4 agent is going to get paid, because his name is on every
5 policy. You know, he's -- you know, he's the wizard behind the
6 curtain with the computer.

7 So, you know, that's what the evidence showed. And so
8 I am going show you how to -- where to get and how to get
9 there.

10 So -- can I get the ELMO, please?

11 So her honor is going to provide you with special
12 interrogatories and possibly the instructions themselves, and I
13 will go over them, but I think it's easy to just show you how
14 to fill out this form because the case and the evidence is so
15 overwhelming we've met our burden; and our burden in this case,
16 like I said, it's not a wrestling match. We don't need to pin
17 them to the ground. This is -- this is for even.

18 So if we are even at the beginning of the case and I
19 put a sheet of paper on one side, that's all we need to win.
20 It's a feather on a scale, that's all you need. I mean, it's a
21 drop of water. It's just a hair more.

22 This isn't the situation where you've got a sailboat
23 in the distance and you don't know which way the wind is
24 blowing because you can't tell because it is not a big wind.
25 This isn't a case where you say, Ah, you know what, the wind is

1 blowing from the left because I see the sailboat leaning way
2 over. This is the situation and all you need to find is you
3 need to get up close and examine, if the sailboat is leaning
4 just a little bit, we win. We have met our burden.

5 So here, we've met our burden by a tremendous margin
6 on each of these issues. And for everybody, you're going to be
7 asked, for Delio, for Mariana, for Rafa, and for Carlos, were
8 they employees of Avant Assurance? The answer is yes. Reinier
9 Cortes, the answer is yes. Ms. Gonzalez Capote, the answer is
10 yes.

11 As far as, are they owed overtime, the answer is also
12 yes. We have proven that they are employees, and as they're
13 employees, you have heard even Ms. Guerra say that everybody
14 worked overtime. You heard Rafa say that when she worked, she
15 was working overtime throughout the year because they just
16 didn't have any agents for 2020 to 2021 until Mariana started,
17 until Carlos started, and then they had more agents. And
18 because they had more agents after open enrollment, they worked
19 less.

20 And so for Delio, we provided you, and I know you took
21 notes of the numbers, and I can show them to you again, but the
22 overtime that Delio was owed is 13,665.28. And, you know,
23 Mr. Tropp was saying, They are not exact, they are not exact.
24 But I'll show you in a second as to why we don't have to be
25 exact as far as inadequate records.

1 And so the next question is, did Avant fail to pay
2 Delio the bonuses and commissions? And again, the answer's
3 yes. And how much is he owed? Exactly what Delio estimated,
4 \$57,096.20.

5 And you get to skip the next question because we have
6 two theories under which we are going under. One is, there's
7 contracts. Each of my clients had a contract, an agreement. I
8 am going to get paid \$10 a policy for Rafa and Delio until open
9 enrollment, and then I am going to get paid according to the
10 commission sheet. And then for the next series of contracts
11 it's, I am getting paid according to the commission sheet for
12 2021 to 2022 and on. And so that's what we calculated.

13 So the same questions are going to be for Carlos. And
14 for Carlos, he's owed 14,596.44 in overtime. The difference is
15 for Carlos, you saw in his spreadsheets, and Carlos has his
16 spreadsheets, and between the \$25,000 in commissions -- excuse
17 me, the \$25,000 bonus and the \$15,000 in commission, it's the
18 same \$40,000 that he talked about in his deposition because
19 remember I went through the exercise, \$10,000, \$5,000 is
20 \$15,000. And you said in your deposition you're owed \$15,000
21 in commissions. It's the numbers.

22 And then the same for Mariana. She's another employee
23 of the three Defendants. She's got overtime wages of \$16,000
24 and they failed to pay her bonuses and commissions of \$15,700.

25 And you get to skip the unjust enrichment because I

1 think really this case is about contracts. I think they
2 weren't just the numbers, but we don't get to recover twice.
3 And again, we are not asking for any more than what we are
4 entitled to.

5 Rafa was an employee of everybody, and she is owed
6 \$26,916.59, because remember, she worked much longer. And she
7 was great at her sales, and she is owed \$73,000 for the bonuses
8 and commissions. And then you sign and you date your verdict
9 form. And so that's this case.

10 Mr. Tropp went through with you on the jury
11 instructions, and I actually want to go through some of them
12 with you because I don't want to just talk and make stuff up.
13 I mean, you heard the evidence. You heard what was made up and
14 what was real, what you heard.

15 And so the law deals with inadequate records, and it
16 requires -- this is not according to me, this is according to
17 the law, but it requires employers to keep records of the hours
18 their employees, like my clients, worked.

19 And if they failed to do it, and it's made it
20 difficult for us to give you an exact amount, Plaintiffs may
21 recover a reasonable estimation of their damages. And if we're
22 so wrong and we have been sitting here for four days -- and
23 this trial didn't get sprung on us, you know, Friday
24 afternoon -- what is the alternative explanation? Hey, they're
25 wrong. I know they worked overtime. And if you are going to

1 find something, awarded them X. It's a light switch.

2 We're employees, we're owed money. We're owed the
3 money that we claim because there is no explanation otherwise.

4 We have claims against Ms. Gonzalez and, you know,
5 Mr. Cortes. I don't think there is any dispute, any reasonable
6 dispute that they were controlling and supervising my clients
7 and their work. And so then we get to this issue of
8 independent contractor versus employee and we talk about the
9 right to control; when and how and the means and the manner.

10 So if you're in business for yourself, you heard
11 Carlos say it, I just show up when I want to show up, man. He
12 didn't have to go and -- you heard Ms. Guerra say, Yeah, well,
13 you know, it's a matter of courtesy. It is not a courtesy to
14 piss off your boss; they're going to fire you. Is it a matter
15 of courtesy? Was she really working for herself? No. Just
16 like my clients. And because she wasn't working for herself,
17 she became an employee or she was paid as an employee because
18 of this lawsuit.

19 How were they paid? Well, an employer usually pays an
20 employee on time worked, fees worked or commission basis. In
21 other words, they set the amount, and you have the ability to
22 go do it. Like car salesmen and other salesmen and saleswomen
23 and salespeople, you can go and sell and be an employee.
24 Because you are making on commission, that makes you an
25 independent contractor? No. They didn't go door to door.

1 They went to an office, they clicked the mouse, they said what
2 they had to say for a couple of minutes and that was it.

3 Was there a risk of taking a loss? Were they
4 compensated at a predetermined rate, like 5 to \$35 a member, or
5 10 for the year before?

6 And then we get to the good stuff. Who provided the
7 tools, equipment and supplies? An employee doesn't.

8 How do they offer their services? Did they advertise?
9 Is there any evidence in this case that my clients advertised
10 or offered their services? And the description isn't
11 controlling. Substance governs over form, in other words,
12 resonates with me.

13 THE COURT: One minute.

14 MR. POLLOCK: And the most important question is
15 whether the Plaintiffs were economically dependent on the
16 Defendants, or whether they were independent contractors
17 themselves. It is not governed by the label. You look to the
18 reality of the relationship and what that relation- -- and
19 whether that relationship demonstrates dependence. Meaning did
20 my clients need, and I think they did, the computer, all the
21 agreements with the insurance companies and the leads and the
22 computer and the monitor to go in and work? Yeah. They're
23 employees, they're owed overtime.

24 This case is about overtime and the wages that they're
25 owed, nothing more and nothing less. And that's all we are

1 asking you to award them, because an award for my client is not
2 a reward. They worked hard for this money, they sacrificed
3 time with their families and they earned it.

4 THE COURT: Time.

5 MR. POLLOCK: Thank you, Your Honor.

6 Thank you, ladies and gentlemen. It's been a pleasure
7 and an honor.

8 THE COURT: Ladies and gentlemen, we're going to give
9 you a brief break. My courtroom deputy is going to meet you in
10 the jury room now to take your lunch orders. We will be
11 ordering lunch in for you, so if you can fill out those forms.
12 We'll bring you back out to the courtroom and I will instruct
13 you on the law at that time.

14 (The jury exited the courtroom at 12:01 p.m.)

15 THE COURT: So Defendants have submitted yet another
16 version of the unclean hands defense instruction that they want
17 me to read to the jury.

18 Have you had a chance to look at it, Mr. Pollock?

19 MR. POLLOCK: I looked at it briefly.

20 THE COURT: I can't make much sense of it. It does
21 say, The equitable doctrine of unclean hands applies when a
22 party seeking equitable relief has committed an unconscionable
23 act immediately related to the equity the party seeks in
24 respect to the litigation. To assert an unclean hands defense,
25 the Defendant must demonstrate the Plaintiff's wrongdoing is

1 directly related to the claim against which it is asserted, and
2 even if directly related, the Defendant must also show that it
3 was personally injured by the Plaintiff's wrongful conduct.

4 And here, Avant contends that the Plaintiffs' claims
5 for unjust enrichment are barred because Plaintiffs' own
6 inequitable conduct and wrongdoings are directly related to
7 this claim.

8 Such Plaintiffs own wrongdoing and unclean hands are
9 to be considered, and as a result, their claim for unjust
10 enrichment should be barred in full.

11 I don't understand it.

12 MR. CUETO: I took up drafting that.

13 THE COURT: I'm sorry?

14 MR. CUETO: I took over drafting while Mr. -- I wanted
15 to just --

16 MR. TROPP: I had -- I had initially put in the
17 affirmative defense of unclean hands, and I listed all the
18 authorities for it, but I -- at the end, just those two
19 sentences, that it should be considered.

20 THE COURT: What is it -- what is it, though? In
21 other words, the alleged wrongdoing, the wrongdoing that you
22 assert should bar the claim for unjust enrichment is what
23 exactly? You don't -- we don't frame it for the jury in this
24 muddled instruction.

25 What is the unclean hands that you maintain? In your

1 -- in your answer it was what?

2 MR. CUETO: The cease and desist letter.

3 THE COURT: In your answer where you pled the
4 affirmative defense, what was -- what was the conduct that
5 constituted the unclean hands? Do you know?

6 MR. TROPP: Well, yeah, the interference and the --
7 that basically -- I had initially put that in there, that they
8 basically had a scheme to defraud. And in response to their
9 interference with the business of Avant, they came up with
10 this --

11 THE COURT: Third affirmative defense barred by the
12 doctrine of unclean hands because the Plaintiffs at all
13 material times claimed 1099 independent contractor status with
14 the IRS.

15 How does that relate to unjust enrichment?

16 MR. CUETO: I --

17 THE COURT: First of all, this proposed instruction
18 doesn't even tell the jury what you claim is the conduct
19 constituting the unclean hands that should bar recovery under
20 an equitable doctrine of unjust enrichment.

21 MR. CUETO: It was also the interference with the
22 clients.

23 THE COURT: Where do you say that? In your pleading,
24 in your affirmative defense.

25 MR. CUETO: I don't believe it's asserted.

1 THE COURT: I'm sorry?

2 MR. CUETO: I don't think it's described in there.

3 THE COURT: It's not. So the only unclean hands
4 defense you presented was this one that I'm reading from, from
5 Docket Entry 14. The unclean hands consists of the Plaintiffs'
6 claiming 1099 independent contractor status with the IRS.

7 MR. CUETO: So the defense is, it is inequitable for
8 them to come to this court asserting that they are employees
9 when they self-reported to be independent contractors. We
10 believe that's -- that's inequitable.

11 THE COURT: But that's -- but that's not what this
12 proposed instruction even says, right? Where is that in here?

13 MR. CUETO: I believe it was -- I believe it was
14 initially --

15 THE COURT: I don't know what I am working with. You
16 folks want me to add something at the eleventh hour to these
17 instructions and you're giving me --

18 MR. CUETO: I took over from --

19 THE COURT: I understand that. I don't have anything
20 to work with now. The jury is coming back in about ten
21 minutes. If you can clean this up, I will add it; if you
22 can't, I won't.

23 MR. POLLOCK: Your Honor?

24 MR. TROPP: I understand, Your Honor.

25 THE COURT: I'm sorry?

1 MR. POLLOCK: I said, Your Honor, may we reopen just
2 to put into evidence the summaries of the worksheets of -- of
3 the wages that Mr. Cummings and I went through with the
4 witnesses?

5 THE COURT: I'm sorry, what summaries?

6 MR. POLLOCK: There were the demonstrative worksheets
7 that we had. Can we admit -- can we move those into evidence?

8 THE COURT: Those are demonstratives.

9 MR. POLLOCK: Okay. Thank you.

10 THE COURT: I will be back in about ten minutes. If
11 you are able to clean it up, I will add it; if not, I'm just
12 going to print out the jury instructions I do have and give
13 those. Thank you.

14 (A recess was taken from 12:07 p.m. to 12:16 p.m.)

15 THE COURT DEPUTY: All rise.

16 THE COURT: Are they ready Patricia, the jurors?

17 THE COURTROOM DEPUTY: Checking.

18 THE COURT: Okay.

19 (Pause in proceedings.)

20 (The jury entered the courtroom at 12:20 p.m.)

21 THE COURT: Everyone, please be seated. I would ask
22 the court security officer to pass out those instructions to
23 each of the jurors.

24 COURT'S CLOSING INSTRUCTIONS

25 THE COURT: Ladies and gentlemen, these are the

1 instructions on the law that you must use in deciding this
2 case. You each have, as you can see, have your own set of
3 these instructions, and you will have these to take back with
4 you and use during your deliberations.

5 When I have finished, you will go to the jury room and
6 begin your discussions, sometimes called deliberations. You
7 are free to read along with me, if you would like.

8 Your decision must be based only on the evidence
9 presented here. You must not be influenced in any way, by
10 either sympathy for or prejudice against anyone.

11 You must follow the law as I explain it, even if you
12 do not agree with the law - and you must follow all of my
13 instructions as a whole. You must not single out or disregard
14 any of the instructions on the law.

15 The fact that a corporation is involved as a party
16 must not affect your decision in any way. A corporation and
17 all other persons stand equal before the law and must be dealt
18 with as equals in a court of justice. When a corporation is
19 involved, of course it may act only through people as its
20 employees; and in general, a corporation is responsible under
21 the law for the acts and statements of its employees that are
22 made within the scope of their duties as employees of the
23 company.

24 As I said before, you must consider only the evidence
25 that I have admitted in the case. Evidence includes the

Delio Batista, et al., v. Avant Assurance, Inc., 22-cv-22671-CMA

1 testimony of witnesses and the exhibits admitted. Anything the
2 lawyers say is not evidence and is not binding on you.

3 You should not assume from anything I have said that I
4 have any opinion about any factual issue in this case. Except
5 for my instructions to you on the law, you should disregard
6 anything I may have said during the trial in arriving at your
7 own decision about the facts.

8 Your own recollection and interpretation of the
9 evidence is what matters.

10 In considering the evidence, you may use reasoning and
11 common sense to make deductions and reach conclusions. You
12 should not be concerned about whether the evidence is direct or
13 circumstantial.

14 "Direct evidence" is the testimony of a person who
15 asserts that he or she has actual knowledge of a fact, such as
16 an eyewitness.

17 "Circumstantial evidence" is proof of a chain of facts
18 and circumstances that tend to prove or disprove a fact. There
19 is no legal difference in the weight that you may give to
20 either direct or circumstantial evidence.

21 When I say that you must consider all the evidence, I
22 do not mean that you must accept all the evidence as true or
23 accurate. You should decide whether you believe what each
24 witness had to say, and how important that testimony was. In
25 making that decision, you may believe or disbelieve any witness

Delio Batista, et al., v. Avant Assurance, Inc., 22-cv-22671-CMA

1 in whole or in part. The number of witnesses testifying
2 concerning a particular point does not necessarily matter.

3 To decide whether you believe any witness, I suggest
4 that you ask yourself a few questions:

5 Did the witness impress you as one who was telling the
6 truth?

7 Did the witness have any particular reason not to tell
8 the truth?

9 Did the witness have a personal interest in the
10 outcome of the case?

11 Did the witness seem to have a good memory?

12 Did the witness have the opportunity and ability to
13 accurately observe the things he or she testified about?

14 Did the witness appear to understand the questions
15 clearly and answer them directly?

16 Did the witness's testimony differ from other
17 testimony or other evidence?

18 You should also ask yourself whether there was
19 evidence that a witness testified falsely about an important
20 fact. And ask whether there was evidence that at some other
21 time, a witness said or did something or did not say or do
22 something that was different from the testimony the witness
23 gave during this trial.

24 But keep in mind that a simple mistake does not mean a
25 witness was not telling the truth as he or she remembers it.

Delio Batista, et al., v. Avant Assurance, Inc., 22-cv-22671-CMA

1 People naturally tend to forgot some things or remember them
2 inaccurately. So if a witness misstated something, you must
3 decide whether it was because of an innocent lapse in memory or
4 an intentional deception. The significance of your decision
5 may depend on whether the misstatement is about an important
6 fact or about an unimportant detail.

7 In this case, it is the responsibility of Plaintiffs
8 to prove every essential part of their claim[s] by a
9 "preponderance of the evidence." This is sometimes called the
10 "burden of proof" or the "burden of persuasion." A
11 "preponderance of the evidence" simply means an amount of
12 evidence that is enough to persuade you that the Plaintiffs'
13 claims are more likely true than not true.

14 If the proof fails to establish any essential part of
15 a claim or contention by a preponderance of the evidence, you
16 should find against the Plaintiffs.

17 When more than one claim is involved, you should
18 consider each claim separately.

19 In deciding whether any fact has been proved by a
20 preponderance of the evidence, you may consider the testimony
21 of all of the witnesses, regardless of who may have called
22 them, and all of the exhibits received in evidence, regardless
23 of who may have produced them.

24 If the proof fails to establish any essential part of
25 the Plaintiffs' claims by preponderance of the evidence, you

1 should find for the Defendants as to that claim.

2 Plaintiffs, Delio Batista, Carlos Lopez, Mariana Lopez
3 and Rafaela Valiente, claim that Defendants, Avant Assurance,
4 Reinier Cortes and Andrea Gonzalez Quintero, did not pay
5 Plaintiffs the overtime pay required by the Fair Labor
6 Standards Act, also known as the FLSA.

7 The rights and requirements of the FLSA are mandatory
8 and cannot be waived, negotiated or bargained away between
9 employers and employees. These rights and requirements cannot
10 be abridged by contract or otherwise waived by an employee and
11 can only be compromised when supervised for fairness by either
12 the U.S. Department of Labor or a Court. The rights and
13 requirements of the FLSA, however, do not apply to independent
14 contractors.

15 To succeed under FLSA claim against Defendants,
16 Plaintiffs must prove each of the following facts by a
17 preponderance of the evidence:

18 First, that Plaintiffs were employees of the
19 Defendants, and;

20 Second, that the Defendants failed to pay Plaintiffs
21 the overtime pay required by law.

22 As to the overtime claim: Permitting an employee to
23 engage in an activity is considered work under the FLSA. If
24 Defendants knew or had reason to believe a Plaintiff was
25 working, including work performed away from the office, then

1 the time is work time and is compensable. It is not relevant
2 that the employer did not ask the employee to do the work. The
3 reason that the employee performed the work is also not
4 relevant. If the employer knows or has reason to believe the
5 employee works overtime, the additional hours must be counted
6 as hours worked.

7 Now, the FLSA requires employers to pay an employee at
8 least one-and-one-half times the employee's regular rate for
9 time worked over 40 hours in a workweek. Put another way, if
10 an employee earned works more than 40 hours in one workweek,
11 the employer must pay the employee the overtime rate of 1.5
12 times the regular rate for all time worked after the first 40
13 hours. This is commonly known as time-and-a-half pay for
14 overtime work. Plaintiffs claim as unpaid overtime wages the
15 difference between the amount they earned and the
16 time-and-a-half pay they claimed they also earned.

17 If Plaintiffs are owed overtime, it should be based on
18 one-half the "regular rate."

19 First, you must find the "regular rate." Commissions
20 and non-discretionary bonuses must be included in calculating
21 the "regular rate." This is true regardless of whether the
22 commission or bonus is the sole source of the employee's
23 compensation or is paid in addition to a guaranteed salary or
24 hourly rate and regardless of the method, frequency or
25 regularity of computing, allocating and paying the commission

Delio Batista, et al., v. Avant Assurance, Inc., 22-cv-22671-CMA

1 or bonus. It does not matter whether the commission or bonus
2 earnings are computed daily, weekly, biweekly, semimonthly
3 monthly or at some other interval.

4 If it is not possible or practicable to allocate the
5 commission or bonus to a particular workweek, you shall presume
6 that the employee earned an equal amount of commission and/or
7 bonus in each week of commission and bonus computation period
8 and compute any overtime compensation based on this amount.

9 An employee's regular rate for one week is the basis
10 for calculating any overtime pay due. The regular rate for a
11 week is determined by dividing the total commissions and/or
12 bonuses earned during the period in question by the number of
13 weeks the commissions and/or bonuses were intended to cover.
14 This will give you an amount each Plaintiff earned each week.

15 To determine the regular rate, divide the amount each
16 employee earned each week by the total hours worked each week.
17 Employees are entitled to recover as overtime wage damages
18 one-half the "regular rate" for each overtime hour worked.

19 You must then determine how many overtime hours each
20 employee worked each week by subtracting 40 from the total
21 hours each employee worked each week.

22 Once you determine the "regular rate" and any
23 "overtime hours per week," you should then multiply the
24 overtime hours per week by one-half the "regular rate" for each
25 overtime hour worked.

1 The amount of damages is the difference between the
2 amount Plaintiffs should have been paid and the amount they
3 were actually paid. Plaintiffs are entitled to recover damages
4 earned from the date of your verdict back to no more than two
5 years before they filed this lawsuit on August 23rd, 2022.

6 Inadequate Records: The law requires employers to
7 keep records of how many hours their employees work and the
8 amount they are paid. Employers are not required to maintain
9 records for independent contractors.

10 Plaintiffs claim that Defendants failed to keep and
11 maintain adequate records of their hours and pay. Plaintiffs
12 also claim that Defendants' failure to keep and maintain
13 adequate records has made it difficult for Plaintiffs to prove
14 the exact amount of their claims.

15 If you find that Defendants failed to keep adequate
16 time and pay records for Plaintiffs and that Plaintiffs
17 performed work for which they should have been paid, Plaintiffs
18 may recover a reasonable estimation of the amount of their
19 damages. But to recover this amount, Plaintiffs must prove by
20 a preponderance of the evidence a reasonable estimation of the
21 amount and extent of the work for which they seek pay.

22 Individual Liability: An individual can also be
23 liable for a Plaintiff's damages under the FLSA if the
24 individual plays a substantial role in causing the FLSA
25 violation. To determine whether the individual is liable, you

1 must consider all the relevant circumstances rather than any
2 one technical factor. Plaintiffs must prove that Defendants,
3 Reinier Cortes and Andrea Gonzalez Quintero, had operational
4 control over Avant. In other words, Cortes and Gonzalez
5 Quintero must have controlled significant aspects of Avant
6 Assurance Inc.'s day-to-day functions, including employee
7 compensation or have had direct responsibility for the
8 supervision of Plaintiffs.

9 It is not always clear whether the law considers
10 someone an "employee," and it is not always clear who the law
11 considers someone's "employer." Some people, for example,
12 perform services for others while remaining self-employed as
13 independent contractors.

14 You must decide: Were Plaintiffs employees of Avant
15 Assurance, Inc., Reinier Cortes and Andrea Gonzalez Quintero,
16 or for were Plaintiffs independent contractors? You should
17 answer this question in light of the economic realities of the
18 entire relationship between the parties. There are a number of
19 factors you must consider based on all the evidence in the
20 case:

21 Who controlled Plaintiffs' work? In an
22 employer/employee relationship, the employer has the right to
23 control the employee's work, to set the means and manner in
24 which the work is done and set the hours of work. In contrast,
25 an independent contractor generally must accomplish a certain

1 work assignment within a desired time, but the details, means
2 and manner by which the contractor completes that assignment
3 are determined by the independent contractor, normally using
4 special skills necessary to perform that kind of work.

5 How were Plaintiffs paid? An employer usually pays
6 and employee on a time worked, piecework or commission basis,
7 and an employer usually provides vacation, or sick time,
8 insurance, retirement and other fringe benefits to the
9 employee. An independent contractor is ordinarily paid an
10 agreed or set amount, or according to an agreed formula, for a
11 given task or job, and no benefits are provided.

12 How much risk or opportunity did Plaintiffs have? An
13 independent contractor is generally one who has the opportunity
14 to make a profit or faces a risk of taking a loss. But an
15 employee is generally compensated at a predetermined rate, has
16 no risk of loss and has social security taxes paid by the
17 employer.

18 Who provided Plaintiffs their tools, equipment and
19 supplies? An independent contractor usually provides the
20 tools, equipment and supplies necessary to do the job - but an
21 employee usually does not.

22 How did Plaintiffs offer services? Independent
23 contractors generally offer their services to the public or
24 others in a particular industry, have procured the necessary
25 licenses for performing their services and they have a business

1 name or listing in the phonebook. Employees ordinarily work
2 for only one or just a few employers, and do not have business
3 names or listings.

4 What was the parties' intent? The parties' intent is
5 always important. But the description the parties themselves
6 give to their relationship is not controlling - substance
7 governs over form.

8 You should consider all the circumstances surrounding
9 the work relationship. No single factor determines the
10 outcome. Nevertheless, the extent of the right to control the
11 means and manner of the worker's performance is the most
12 important factor. The factors listed above are guides for your
13 determination of employee status under the FLSA, but the most
14 important question is whether Plaintiffs were economically
15 dependent upon Defendants or were they independent contractors
16 in business for themselves. The question of employee or
17 independent contractor status is not governed by the label put
18 on the relationship by the parties, nor is it relevant whether
19 the parties intended to create an employment relationship.
20 Whether an individual is an independent contractor or employee
21 requires that one look past the label put on the relationship
22 and look to the economic reality of the relationship.

23 Plaintiffs also claim that they and Avant Assurance
24 entered into a series of contracts to pay bonuses and
25 commissions based on the insurance policies they sold, that

1 Avant Assurance breached these contracts by failing to pay them
2 all the commissions and bonuses they earned and that the breach
3 resulted in damages to each of them. Contracts may be written
4 or oral, and may be partly written or partly oral. Oral
5 contracts are just as valid as written contracts.

6 To prove that contracts were created, Plaintiffs must
7 prove all of the following:

8 One, the essential contract terms were clear enough
9 that the parties could understand what each was required to do;

10 Two, the parties agreed to do something or not to do
11 something, may have value;

12 Three, the parties agree to the essential terms of the
13 contracts. When you examine whether the parties agreed to the
14 essential terms of the contract -- contracts, ask yourself if,
15 under the circumstances, a reasonable person would conclude,
16 from the words and conduct of each party, that there were
17 agreements. The making of a contract depends only on what the
18 parties said or did. You may not consider the parties'
19 thoughts or unspoken intentions.

20 If Plaintiffs did not prove all of the above, then
21 contracts were not created.

22 To recover damages from Avant Assurance Inc. for
23 breach of contract, the Plaintiffs must prove all of the
24 following:

25 One, Plaintiffs and Avant Assurance Inc. entered into

1 contracts;

2 Two, Plaintiffs did all or substantially all of the
3 essential things which the contracts required them to do or
4 that they were excused from doing those things;

5 Three, All conditions -- conditions required by the
6 contracts for Avant Assurance Inc.'s performance had occurred;

7 Four, Avant Assurance Inc. breached the contracts by
8 not paying the commissions and/or bonuses the contracts
9 required it to pay;

10 And five, Plaintiffs were damaged by that failure.

11 If a contract does not state a specific time within
12 which a party is to perform a requirement of the contract, then
13 the party must perform the requirement within a reasonable
14 time. What is a reasonable time depends on the facts of each
15 case, including the subject matter and purpose of the contract
16 and the express intent of the parties at the time they entered
17 into the contract.

18 Contracts can be created by the conduct of the parties
19 without spoken or written words. Contracts created by conduct
20 are just as valid as contracts formed with words.

21 Conduct will create a contract if the conduct of both
22 parties is intentional and each knows, or under the
23 circumstances should know, that the other party will understand
24 the conduct as creating a contract.

25 In deciding whether a contract was created by conduct,

Delio Batista, et al., v. Avant Assurance, Inc., 22-cv-22671-CMA

1 you should consider the conduct and relationship of the parties
2 as well as all of the circumstances.

3 Plaintiffs' last claim is asserted in the alternative,
4 and the -- and in the event that you do not find Plaintiffs
5 entered contracts with Avant Assurance Inc. In this last
6 claim, Plaintiffs state that Avant Assurance Inc. owes them
7 commissions and bonuses for selling policies of insurance for
8 it because without payment for the additional amounts they
9 claim are owed, Avant Assurance would be unjustly enriched. To
10 establish this claim, Plaintiffs must prove all of the
11 following:

12 One, Plaintiffs gave a benefit to Avant Assurance,
13 Inc.;

14 Two, Avant Assurance Inc. knew of the benefit;

15 Three, Avant Assurance Inc. accepted or retained the
16 benefit; and

17 Four, The circumstances are such that Avant Assurance
18 Inc. should, in all fairness, be required to pay for the
19 benefit.

20 Of course the fact that I have given you instructions
21 concerning the issue of Plaintiffs' damages should not be
22 interpreted in any way as an indication that I believe the
23 Plaintiffs should or should not prevail in this case.

24 Your verdict must be unanimous - in other words, you
25 must all agree. Your deliberations are secret, and you will

Delio Batista, et al., v. Avant Assurance, Inc., 22-cv-22671-CMA

1 never have to explain your verdict to anyone.

2 Each of you must decide the case for yourself, but
3 only after fully considering the evidence with the other
4 jurors. You must discuss the case with one another and try to
5 reach an agreement. While you are discussing the case, do not
6 hesitate to re-examine your own opinion and change your mind if
7 you become convinced that you were wrong. But do not give up
8 your honest beliefs just because others think differently or
9 because you simply want to get the case over with.

10 Remember, in a very real way, you are judges, judges
11 of the facts. Your only real interest is to seek the truth
12 from the evidence in the case.

13 When you go to the jury room, please choose one of
14 your members to act as foreperson. The foreperson will direct
15 your deliberations and speak for you here in court.

16 A verdict form has been prepared for your convenience.
17 You will take the verdict form with you to the jury room, and
18 when you have all agreed on the verdict, your foreperson must
19 fill in the form, sign it and date it. Then you will return
20 with it to the courtroom.

21 If you wish to communicate with me at any time, please
22 write down your message or question and give it to the court
23 security officer. The court security officer will bring it to
24 me, and I will respond as promptly as possible, either in
25 writing or by talking to you here in the courtroom.

1 Please understand that I may have to talk to the
2 lawyers and the parties before I respond to your question or
3 message, so you should be patient as you await my response.
4 But I caution you not to tell me how many jurors have voted one
5 way or the other at that time. That type of information should
6 remain in the jury room and not be shared with anyone,
7 including me in your note or question.

8 Ladies and gentlemen, some of you took notes to help
9 you remember what the witnesses said. If you did take notes,
10 don't share them until you go to the jury room to decide the
11 case. Whether or not you took notes, you should rely on your
12 own memory of the testimony. Your notes are there only to help
13 your memory; they are not entitled to any greater weight than
14 your memory or impression about the testimony.

15 Ladies and gentlemen, the verdict form consists of
16 several pages. You have seen the lawyers show it to you during
17 closing arguments, it consists of five pages in total. At the
18 end of each question, you will you see an instruction on what
19 to do depending on how you answered that question. So please
20 look at the instruction, it will tell you whether to skip over
21 the next question and go on to another one or move on,
22 depending on what the answer was.

23 We are going to give you two sets of these jury
24 instructions; one of those you can use sort of as a -- to write
25 on or scribble on and make changes to. And then the other one,

Delio Batista, et al., v. Avant Assurance, Inc., 22-cv-22671-CMA

1 to please make it your final. Sometimes jurors with jury
2 instructions like these and verdict forms like these need,
3 like, a separate one in case they make mistakes in how they
4 filled it out or how they followed those instructions. So
5 there's one -- I will write on it "draft" and the other one I
6 will leave clean so you know that that's the one the foreperson
7 is to fill in consistent with the instructions I have given.

8 Are all of these exhibits ready to go back to the
9 jury, gentlemen?

10 MR. POLLOCK: We put them on a --

11 THE COURT: All right. My courtroom deputy will be
12 bringing lunch in as soon as it arrives for you. If we have
13 not heard back from you by 5 p.m., she will knock on the door
14 and release you for the evening, with instructions to return
15 tomorrow morning at 9:00. So the time you went today is
16 5 p.m., the latest. Thank you very much.

17 COURT SECURITY OFFICER: All rise.

18 (Jury exited the courtroom for deliberations at 12:47 p.m.)

19 THE COURT: How is the jury to look at the exhibits,
20 gentlemen?

21 MR. POLLOCK: Through a drive.

22 THE COURT: And how are they going to look at it?

23 MR. CUMMINGS: They don't have a computer.

24 MR. POLLOCK: I thought there was going to be a laptop
25 or something where they'd be able to look at it.

1 THE COURT: The U.S. Attorney's Office provides
2 laptops in criminal cases; parties provide their own. You
3 provide a clean laptop with nothing on it.

4 MR. POLLOCK: We don't have a clean laptop. The last
5 time -- we don't have a laptop, so we need one.

6 THE COURT: I don't know.

7 MR. POLLOCK: The last trial I had, the Court was able
8 to procure one to share.

9 (Pause in proceedings.)

10 THE COURT: Patricia, do we have any blank laptops?

11 MR. POLLOCK: Judge, if I could possibly just create a
12 new user on the Mac, which only gives them access to whatever's
13 on there, but it would still have Internet, which I don't know
14 if you want.

15 THE COURT: Normally we just give them just blank
16 laptops with no Internet access.

17 THE COURTROOM DEPUTY: With the thumb drive.

18 MR. POLLOCK: And I've got the thumb drive, I just
19 don't have the blank laptop.

20 THE COURT: If we can check with IT; I don't know if
21 they have one.

22 And you corrected the verdict forms, Patricia, as they
23 requested, or no?

24 Were you able to correct the verdict forms to correct
25 the --

1 THE COURTROOM DEPUTY: I gave -- I wasn't sure exactly
2 what I was going to send them.

3 THE COURT: So are we all in agreement to change the
4 Defendant's name? It is incorrect on the verdict form.

5 MR. POLLOCK: Where do you see that? I saw that there
6 is a reference to Gonzalez Capote instead of Gonzalez Quintero.
7 So I sent an e-mail asking that that be corrected.

8 MR. TROPP: That's fine.

9 THE COURT: So I will have Patricia make that change,
10 and we'll see if we can locate a blank laptop; if not, they're
11 without exhibits.

12 MR. POLLOCK: You want me to just drop off the USB in
13 case there's one that's found?

14 THE COURT: Umm --

15 MR. POLLOCK: If there's a laptop, there's a laptop;
16 if there's not, there's not. And if there is one, then I have
17 the USB to plug in.

18 THE COURT: All right. Okay.

19 MR. POLLOCK: Okay.

20 THE COURT: And have you all looked at the USB?

21 MR. TROPP: It's the one you sent me?

22 (Pause in proceedings.)

23 THE COURT: Joint exhibits. We need your cell phone
24 numbers so in case there is a jury question, we can all contact
25 you.

July 13, 2023

128

Delio Batista, et al., v. Avant Assurance, Inc., 22-cv-22671-CMA

(Pause in proceedings.)

MR. POLLOCK: We are in recess, Your Honor?

THE COURT: We are. Thank you.

(Recess taken from 12:53 p.m. to 5 p.m. for deliberations.)

(Jurors released from jury room.)

(The proceedings adjourned at 12:53 p.m.)

C E R T I F I C A T E

I hereby certify that the foregoing is an
accurate transcription of the proceedings in the
above-entitled matter.

09/07/2023
DATE



STEPHANIE A. McCARN, RPR
Official United States Court Reporter
400 North Miami Avenue, Thirteenth Floor
Miami, Florida 33128
(305) 523-5518

July 13, 2023

1

Delio Batista, et al., v. Avant Assurance, Inc., 22-cv-22671-CMA

| | | | | | | |
|---|---|--|--|--|--|--|
| \$ | 1099s [3] - 70:25, 79:7, 93:22 10:00 [1] - 10:3 10:25 [1] - 61:25 10:30 [2] - 64:14, 64:15 10:33 [1] - 65:12 10:51 [1] - 65:12 10:52 [1] - 66:1 11 [1] - 60:21 12 [5] - 92:4, 92:10, 92:20, 93:16 120 [1] - 82:1 1250 [3] - 1:23, 17:24, 17:25 128 [2] - 1:8, 3:22 1200 [2] - 29:16, 31:24 12:01 [1] - 104:14 12:07 [1] - 108:14 12:16 [1] - 108:14 12:20 [1] - 108:20 12:47 [1] - 125:18 12:53 [3] - 1:6, 128:4, 128:6 13 [3] - 1:5, 3:9, 92:20 13,665.28 [1] - 99:22 13-3 [1] - 1:7 135 [1] - 1:16 14 [1] - 107:5 14,596.44 [1] - 100:14 1499 [1] - 17:25 15 [8] - 18:3, 18:22, 64:17, 64:18, 65:8, 65:9, 83:12, 97:19 15,000 [2] - 17:20, 80:12 1500-1999 [1] - 17:20 1:50 [1] - 58:12 1st [2] - 38:2 | 2100 [1] - 1:23 215 [2] - 22:7, 22:10 22-cv-22671-CMA [1] - 1:2 230-4884 [1] - 1:17 23rd [1] - 116:5 25 [1] - 43:5 | 7 | 126:24 above-entitled [1] - 128:12 abridged [1] - 113:10 accept [1] - 110:22 acceptable [1] - 64:2 accepted [1] - 122:15 access [10] - 9:25, 10:1, 55:12, 55:13, 55:24, 56:18, 88:1, 88:2, 126:12, 126:16 accomplish [2] - 87:4, 117:25 according [6] - 88:13, 100:9, 100:11, 101:16, 118:10 account [3] - 23:12, 23:21, 23:23 accountability [1] - 52:13 accountant [1] - 51:19 accountants [1] - 11:20 accurate [2] - 110:23, 128:11 accurately [1] - 111:13 accused [1] - 73:10 act [3] - 104:23, 109:19, 123:14 Act [2] - 71:5, 113:6 active [2] - 40:24, 41:1 actively [4] - 27:17, 40:20, 41:1, 42:5 activities [1] - 10:4 activity [1] - 113:23 acts [1] - 109:21 actual [1] - 110:15 add [3] - 107:16, 107:21, 108:11 addition [2] - 39:8, 114:23 additional [2] - 114:5, 122:8 address [2] - 66:18, 94:14 addressed [1] - 73:17 adequate [3] - 116:11, 116:13, 116:15 adjourned [1] - 128:6 admit [1] - 108:7 ADMITTED [1] - 3:12 admitted [3] - 79:6, 109:25, 110:1 advance [1] - 44:4 advances [1] - 94:6 advertise [1] - 103:8 advertised [1] - 103:9 affect [1] - 109:16 afford [1] - 21:20 | | |
| \$10 [1] - 100:8 \$10,000 [3] - 17:19, 17:25, 100:19 \$110 [1] - 82:1 \$15 [1] - 81:10 \$15,000 [3] - 100:17, 100:20 \$15,700 [1] - 100:24 \$16,000 [1] - 100:23 \$200 [1] - 47:22 \$2400 [2] - 47:21 \$25,000 [7] - 34:16, 80:17, 80:18, 83:13, 83:17, 100:16, 100:17 \$26,916.59 [1] - 101:6 \$300 [1] - 47:15 \$35 [5] - 18:3, 18:22, 81:9, 83:7, 103:4 \$36,000 [3] - 91:11, 91:16, 91:17 \$40,000 [1] - 100:18 \$5,000 [2] - 97:18, 100:19 \$57,096.20 [1] - 100:4 \$73,000 [1] - 101:7 | 10:00 [1] - 10:3 10:25 [1] - 61:25 10:30 [2] - 64:14, 64:15 10:33 [1] - 65:12 10:51 [1] - 65:12 10:52 [1] - 66:1 11 [1] - 60:21 12 [5] - 92:4, 92:10, 92:20, 93:16 120 [1] - 82:1 1250 [3] - 1:23, 17:24, 17:25 128 [2] - 1:8, 3:22 1200 [2] - 29:16, 31:24 12:01 [1] - 104:14 12:07 [1] - 108:14 12:16 [1] - 108:14 12:20 [1] - 108:20 12:47 [1] - 125:18 12:53 [3] - 1:6, 128:4, 128:6 13 [3] - 1:5, 3:9, 92:20 13,665.28 [1] - 99:22 13-3 [1] - 1:7 135 [1] - 1:16 14 [1] - 107:5 14,596.44 [1] - 100:14 1499 [1] - 17:25 15 [8] - 18:3, 18:22, 64:17, 64:18, 65:8, 65:9, 83:12, 97:19 15,000 [2] - 17:20, 80:12 1500-1999 [1] - 17:20 1:50 [1] - 58:12 1st [2] - 38:2 | 3 3 [3] - 18:22, 30:3, 58:10 305 [5] - 1:17, 1:21, 1:24, 2:4, 128:17 33128 [2] - 2:4, 128:16 33134-5267 [1] - 1:24 33140-2316 [1] - 1:20 33146-1878 [1] - 1:16 35 [2] - 43:13, 83:12 35,000 [1] - 80:12 36,000 [1] - 92:2 3:00 [5] - 29:16, 31:16, 31:17, 31:20, 32:7 | 7 7 [2] - 60:13, 60:15 72,000 [1] - 93:24 77 [1] - 3:21 770 [1] - 1:16 777-0377 [1] - 1:24 7:00 [3] - 29:16, 31:24, 60:14 7:30 [1] - 58:9 | 8 8 [3] - 58:9, 60:13, 60:15 814-2035 [1] - 1:21 8:00 [1] - 60:14 | 9 9 [6] - 30:6, 60:12, 60:22, 61:3, 61:8, 75:15 94 [1] - 3:21 9:00 [44] - 8:2, 9:15, 10:2, 10:3, 10:10, 10:19, 11:4, 15:15, 28:3, 28:4, 29:16, 30:3, 31:13, 31:16, 31:17, 31:20, 32:7, 48:5, 48:6, 48:7, 48:17, 48:19, 48:20, 48:21, 59:23, 59:25, 60:1, 61:10, 75:22, 125:15 9:06 [3] - 1:6, 4:1, 4:7 9:09 [1] - 4:20 9:11 [1] - 5:20 9th [1] - 28:11 | above-entitled [1] - 128:12 abridged [1] - 113:10 accept [1] - 110:22 acceptable [1] - 64:2 accepted [1] - 122:15 access [10] - 9:25, 10:1, 55:12, 55:13, 55:24, 56:18, 88:1, 88:2, 126:12, 126:16 accomplish [2] - 87:4, 117:25 according [6] - 88:13, 100:9, 100:11, 101:16, 118:10 account [3] - 23:12, 23:21, 23:23 accountability [1] - 52:13 accountant [1] - 51:19 accountants [1] - 11:20 accurate [2] - 110:23, 128:11 accurately [1] - 111:13 accused [1] - 73:10 act [3] - 104:23, 109:19, 123:14 Act [2] - 71:5, 113:6 active [2] - 40:24, 41:1 actively [4] - 27:17, 40:20, 41:1, 42:5 activities [1] - 10:4 activity [1] - 113:23 acts [1] - 109:21 actual [1] - 110:15 add [3] - 107:16, 107:21, 108:11 addition [2] - 39:8, 114:23 additional [2] - 114:5, 122:8 address [2] - 66:18, 94:14 addressed [1] - 73:17 adequate [3] - 116:11, 116:13, 116:15 adjourned [1] - 128:6 admit [1] - 108:7 ADMITTED [1] - 3:12 admitted [3] - 79:6, 109:25, 110:1 advance [1] - 44:4 advances [1] - 94:6 advertise [1] - 103:8 advertised [1] - 103:9 affect [1] - 109:16 afford [1] - 21:20 |
| ' | '20 [1] - 13:24 '21 [1] - 14:2 '21/22 [1] - 59:16 '22 [2] - 13:23, 47:3 '23 [1] - 13:24 | 4 4 [3] - 1:11, 3:7, 3:20 40 [7] - 19:10, 48:11, 48:15, 114:9, 114:10, 114:12, 115:20 400 [2] - 2:3, 128:16 42 [1] - 3:9 4A [1] - 1:20 | 8 8 [3] - 58:9, 60:13, 60:15 814-2035 [1] - 1:21 8:00 [1] - 60:14 | 9 9 [6] - 30:6, 60:12, 60:22, 61:3, 61:8, 75:15 94 [1] - 3:21 9:00 [44] - 8:2, 9:15, 10:2, 10:3, 10:10, 10:19, 11:4, 15:15, 28:3, 28:4, 29:16, 30:3, 31:13, 31:16, 31:17, 31:20, 32:7, 48:5, 48:6, 48:7, 48:17, 48:19, 48:20, 48:21, 59:23, 59:25, 60:1, 61:10, 75:22, 125:15 9:06 [3] - 1:6, 4:1, 4:7 9:09 [1] - 4:20 9:11 [1] - 5:20 9th [1] - 28:11 | above-entitled [1] - 128:12 abridged [1] - 113:10 accept [1] - 110:22 acceptable [1] - 64:2 accepted [1] - 122:15 access [10] - 9:25, 10:1, 55:12, 55:13, 55:24, 56:18, 88:1, 88:2, 126:12, 126:16 accomplish [2] - 87:4, 117:25 according [6] - 88:13, 100:9, 100:11, 101:16, 118:10 account [3] - 23:12, 23:21, 23:23 accountability [1] - 52:13 accountant [1] - 51:19 accountants [1] - 11:20 accurate [2] - 110:23, 128:11 accurately [1] - 111:13 accused [1] - 73:10 act [3] - 104:23, 109:19, 123:14 Act [2] - 71:5, 113:6 active [2] - 40:24, 41:1 actively [4] - 27:17, 40:20, 41:1, 42:5 activities [1] - 10:4 activity [1] - 113:23 acts [1] - 109:21 actual [1] - 110:15 add [3] - 107:16, 107:21, 108:11 addition [2] - 39:8, 114:23 additional [2] - 114:5, 122:8 address [2] - 66:18, 94:14 addressed [1] - 73:17 adequate [3] - 116:11, 116:13, 116:15 adjourned [1] - 128:6 admit [1] - 108:7 ADMITTED [1] - 3:12 admitted [3] - 79:6, 109:25, 110:1 advance [1] - 44:4 advances [1] - 94:6 advertise [1] - 103:8 advertised [1] - 103:9 affect [1] - 109:16 afford [1] - 21:20 | |
| 0 | 2 [2] - 18:22, 29:18 20 [5] - 64:15, 92:6, 92:14, 92:15 20,000 [1] - 17:20 2000 [1] - 17:20 2010 [1] - 22:7 2020 [4] - 71:23, 83:7, 97:23, 99:16 2021 [13] - 13:22, 13:23, 16:4, 16:9, 16:10, 16:20, 39:5, 39:7, 39:10, 41:24, 47:3, 99:16, 100:12 2022 [6] - 39:9, 40:18, 43:11, 46:1, 100:12, 116:5 2023 [1] - 1:5 | 5 5 [9] - 18:3, 18:22, 43:13, 81:10, 103:4, 125:13, 125:16, 128:4 50 [1] - 19:10 52 [1] - 3:10 523-5518 [2] - 2:4, 128:17 5500 [3] - 91:21, 91:24, 92:3 57 [1] - 3:10 5750 [1] - 1:20 5:00 [3] - 59:21, 59:23, 85:8 | 7 7 [2] - 60:13, 60:15 72,000 [1] - 93:24 77 [1] - 3:21 770 [1] - 1:16 777-0377 [1] - 1:24 7:00 [3] - 29:16, 31:24, 60:14 7:30 [1] - 58:9 | 8 8 [3] - 58:9, 60:13, 60:15 814-2035 [1] - 1:21 8:00 [1] - 60:14 | 9 9 [6] - 30:6, 60:12, 60:22, 61:3, 61:8, 75:15 94 [1] - 3:21 9:00 [44] - 8:2, 9:15, 10:2, 10:3, 10:10, 10:19, 11:4, 15:15, 28:3, 28:4, 29:16, 30:3, 31:13, 31:16, 31:17, 31:20, 32:7, 48:5, 48:6, 48:7, 48:17, 48:19, 48:20, 48:21, 59:23, 59:25, 60:1, 61:10, 75:22, 125:15 9:06 [3] - 1:6, 4:1, 4:7 9:09 [1] - 4:20 9:11 [1] - 5:20 9th [1] - 28:11 | above-entitled [1] - 128:12 abridged [1] - 113:10 accept [1] - 110:22 acceptable [1] - 64:2 accepted [1] - 122:15 access [10] - 9:25, 10:1, 55:12, 55:13, 55:24, 56:18, 88:1, 88:2, 126:12, 126:16 accomplish [2] - 87:4, 117:25 according [6] - 88:13, 100:9, 100:11, 101:16, 118:10 account [3] - 23:12, 23:21, 23:23 accountability [1] - 52:13 accountant [1] - 51:19 accountants [1] - 11:20 accurate [2] - 110:23, 128:11 accurately [1] - 111:13 accused [1] - 73:10 act [3] - 104:23, 109:19, 123:14 Act [2] - 71:5, 113:6 active [2] - 40:24, 41:1 actively [4] - 27:17, 40:20, 41:1, 42:5 activities [1] - 10:4 activity [1] - 113:23 acts [1] - 109:21 actual [1] - 110:15 add [3] - 107:16, 107:21, 108:11 addition [2] - 39:8, 114:23 additional [2] - 114:5, 122:8 address [2] - 66:18, 94:14 addressed [1] - 73:17 adequate [3] - 116:11, 116:13, 116:15 adjourned [1] - 128:6 admit [1] - 108:7 ADMITTED [1] - 3:12 admitted [3] - 79:6, 109:25, 110:1 advance [1] - 44:4 advances [1] - 94:6 advertise [1] - 103:8 advertised [1] - 103:9 affect [1] - 109:16 afford [1] - 21:20 |
| 09/07/2023 [1] - 128:14 | 2 | 6 6 [1] - 3:8 600 [8] - 34:13, 35:4, 35:6, 36:1, 83:14, 83:15, 83:19 600th [2] - 34:20, 35:8 67 [1] - 3:20 | A a.m [9] - 1:6, 4:1, 4:7, 4:20, 5:20, 61:25, 65:12, 66:1 ability [2] - 102:21, 111:12 able [37] - 9:15, 9:19, 9:21, 9:23, 9:24, 11:15, 11:25, 12:1, 12:3, 15:12, 21:20, 22:24, 24:24, 25:2, 25:7, 29:13, 32:12, 41:16, 46:22, 50:17, 54:22, 54:23, 54:24, 55:7, 55:10, 55:11, 55:13, 55:22, 56:18, 57:8, 60:5, 64:21, 97:4, 108:11, 125:25, 126:7, | above-entitled [1] - 128:12 abridged [1] - 113:10 accept [1] - 110:22 acceptable [1] - 64:2 accepted [1] - 122:15 access [10] - 9:25, 10:1, 55:12, 55:13, 55:24, 56:18, 88:1, 88:2, 126:12, 126:16 accomplish [2] - 87:4, 117:25 according [6] - 88:13, 100:9, 100:11, 101:16, 118:10 account [3] - 23:12, 23:21, 23:23 accountability [1] - 52:13 accountant [1] - 51:19 accountants [1] - 11:20 accurate [2] - 110:23, 128:11 accurately [1] - 111:13 accused [1] - 73:10 act [3] - 104:23, 109:19, 123:14 Act [2] - 71:5, 113:6 active [2] - 40:24, 41:1 actively [4] - 27:17, 40:20, 41:1, 42:5 activities [1] - 10:4 activity [1] - 113:23 acts [1] - 109:21 actual [1] - 110:15 add [3] - 107:16, 107:21, 108:11 addition [2] - 39:8, 114:23 additional [2] - 114:5, 122:8 address [2] - 66:18, 94:14 addressed [1] - 73:17 adequate [3] - 116:11, 116:13, 116:15 adjourned [1] - 128:6 admit [1] - 108:7 ADMITTED [1] - 3:12 admitted [3] - 79:6, 109:25, 110:1 advance [1] - 44:4 advances [1] - 94:6 advertise [1] - 103:8 advertised [1] - 103:9 affect [1] - 109:16 afford [1] - 21:20 | | |
| 1 | 2 [2] - 18:22, 29:18 20 [5] - 64:15, 92:6, 92:14, 92:15 20,000 [1] - 17:20 2000 [1] - 17:20 2010 [1] - 22:7 2020 [4] - 71:23, 83:7, 97:23, 99:16 2021 [13] - 13:22, 13:23, 16:4, 16:9, 16:10, 16:20, 39:5, 39:7, 39:10, 41:24, 47:3, 99:16, 100:12 2022 [6] - 39:9, 40:18, 43:11, 46:1, 100:12, 116:5 2023 [1] - 1:5 | 6 6 [1] - 3:8 600 [8] - 34:13, 35:4, 35:6, 36:1, 83:14, 83:15, 83:19 600th [2] - 34:20, 35:8 67 [1] - 3:20 | 7 7 [2] - 60:13, 60:15 72,000 [1] - 93:24 77 [1] - 3:21 770 [1] - 1:16 777-0377 [1] - 1:24 7:00 [3] - 29:16, 31:24, 60:14 7:30 [1] - 58:9 | 8 8 [3] - 58:9, 60:13, 60:15 814-2035 [1] - 1:21 8:00 [1] - 60:14 | above-entitled [1] - 128:12 abridged [1] - 113:10 accept [1] - 110:22 acceptable [1] - 64:2 accepted [1] - 122:15 access [10] - 9:25, 10:1, 55:12, 55:13, 55:24, 56:18, 88:1, 88:2, 126:12, 126:16 accomplish [2] - 87:4, 117:25 according [6] - 88:13, 100:9, 100:11, 101:16, 118:10 account [3] - 23:12, 23:21, 23:23 accountability [1] - 52:13 accountant [1] - 51:19 accountants [1] - 11:20 accurate [2] - 110:23, 128:11 accurately [1] - 111:13 accused [1] - 73:10 act [3] - 104:23, 109:19, 123:14 Act [2] - 71:5, 113:6 active [2] - 40:24, 41:1 actively [4] - 27:17, 40:20, 41:1, 42:5 activities [1] - 10:4 activity [1] - 113:23 acts [1] - 109:21 actual [1] - 110:15 add [3] - 107:16, 107:21, 108:11 addition [2] - 39:8, 114:23 additional [2] - 114:5, 122:8 address [2] - 66:18, 94:14 addressed [1] - 73:17 adequate [3] - 116:11, 116:13, 116:15 adjourned | |

July 13, 2023

2

Delio Batista, et al., v. Avant Assurance, Inc., 22-cv-22671-CMA

| | | | | |
|--|--|--|---|--|
| <p>afraid [6] - 69:18, 69:20, 69:21, 69:22, 69:24</p> <p>afternoon [2] - 64:8, 101:24</p> <p>afterwards [1] - 57:13</p> <p>agency [3] - 27:16, 40:20, 41:2</p> <p>agent [35] - 7:5, 7:7, 7:8, 8:19, 11:3, 11:23, 12:1, 14:14, 20:21, 22:4, 22:10, 22:21, 24:9, 25:2, 26:6, 27:21, 29:22, 31:5, 32:14, 39:15, 40:19, 41:5, 41:12, 41:17, 46:20, 52:23, 59:20, 75:5, 76:11, 79:23, 85:3, 85:5, 85:7, 98:4</p> <p>agent's [1] - 30:18</p> <p>agents [28] - 6:25, 10:25, 31:7, 32:23, 33:2, 33:11, 35:18, 36:4, 37:17, 39:20, 42:5, 45:20, 45:22, 48:19, 50:5, 53:6, 53:12, 72:15, 74:14, 79:3, 79:15, 84:25, 95:2, 95:6, 97:6, 99:16, 99:17, 99:18</p> <p>ago [3] - 58:5, 58:6, 80:18</p> <p>agree [11] - 15:6, 15:8, 46:15, 47:9, 70:10, 70:13, 70:14, 70:15, 109:12, 120:12, 122:25</p> <p>agreed [13] - 31:25, 32:1, 33:12, 61:9, 74:3, 88:12, 88:13, 90:20, 118:10, 120:10, 120:13, 123:18</p> <p>agreement [18] - 14:16, 14:19, 14:20, 15:7, 16:9, 37:15, 43:12, 78:12, 81:8, 81:12, 81:14, 81:24, 82:2, 96:20, 100:7, 123:5, 127:3</p> <p>agreements [2] - 103:21, 120:17</p> <p>ahead [28] - 8:1, 8:3, 9:16, 11:12, 11:19, 12:2, 12:16, 14:6, 14:7, 15:16, 15:24, 20:3, 21:2, 21:19, 24:21, 28:4, 28:22, 28:25, 29:25, 31:25,</p> | <p>35:4, 38:6, 40:24, 44:20, 55:3, 55:22, 57:21</p> <p>ain't [1] - 95:3</p> <p>ALIX [1] - 4:21</p> <p>Alix [4] - 3:7, 4:15, 5:7, 5:11</p> <p>alleged [1] - 105:21</p> <p>allocate [1] - 115:4</p> <p>allocating [1] - 114:25</p> <p>allotted [2] - 30:18, 85:2</p> <p>allow [1] - 53:10</p> <p>allowed [9] - 12:23, 24:2, 53:16, 57:9, 57:10, 79:2, 79:3, 79:4, 92:23</p> <p>almost [8] - 42:7, 43:1, 71:20, 82:4, 92:16, 94:15</p> <p>alternating [1] - 31:19</p> <p>alternative [2] - 101:24, 122:3</p> <p>ALTONAGA [1] - 1:12</p> <p>Ambetter [3] - 17:12, 42:3, 83:7</p> <p>amount [28] - 9:1, 12:10, 15:11, 15:14, 17:1, 17:5, 34:14, 44:18, 45:2, 88:13, 88:25, 101:20, 102:21, 112:11, 114:15, 115:6, 115:8, 115:14, 115:15, 116:1, 116:2, 116:8, 116:14, 116:18, 116:19, 116:21, 118:10</p> <p>amounts [1] - 122:8</p> <p>analogy [1] - 87:16</p> <p>Andrea [6] - 32:17, 38:24, 64:8, 113:4, 117:3, 117:15</p> <p>ANDREA [1] - 1:8</p> <p>animal [1] - 67:3</p> <p>answer [22] - 22:3, 41:3, 50:4, 50:14, 56:4, 56:8, 73:18, 73:21, 74:17, 74:20, 93:11, 93:12, 99:8, 99:9, 99:11, 106:1, 106:3, 111:15, 117:17, 124:22</p> <p>answer's [1] - 100:2</p> <p>answered [5] - 77:25, 78:1, 78:2, 93:20, 124:19</p> <p>answering [1] - 19:17</p> <p>answers [2] - 93:10,</p> | <p>93:14</p> <p>apologies [1] - 4:12</p> <p>apologize [2] - 5:6, 12:19</p> <p>appear [1] - 111:14</p> <p>APPEARANCES [2] - 1:13, 2:1</p> <p>application [1] - 55:4</p> <p>applies [3] - 82:22, 104:21</p> <p>apply [1] - 113:13</p> <p>appreciate [2] - 67:5, 67:9</p> <p>appreciation [1] - 67:17</p> <p>approach [1] - 5:18</p> <p>approve [1] - 20:12</p> <p>April [1] - 40:18</p> <p>Apt [1] - 1:20</p> <p>area [1] - 14:3</p> <p>ARGUMENT [3] - 67:1, 77:2, 94:23</p> <p>argument [1] - 62:19</p> <p>Argument [3] - 3:20, 3:21, 3:21</p> <p>arguments [5] - 63:25, 66:6, 66:10, 66:16, 124:17</p> <p>arrangement [1] - 47:16</p> <p>arrives [1] - 125:12</p> <p>arriving [1] - 110:6</p> <p>aside [2] - 66:9</p> <p>aspect [3] - 38:18, 88:22, 91:10</p> <p>aspects [4] - 21:11, 22:17, 94:11, 117:5</p> <p>assert [2] - 104:24, 105:22</p> <p>asserted [3] - 105:1, 106:25, 122:3</p> <p>asserting [2] - 66:19, 107:8</p> <p>asserts [1] - 110:15</p> <p>assigned [1] - 7:24</p> <p>assignment [2] - 118:1, 118:2</p> <p>assignments [1] - 87:5</p> <p>assist [1] - 6:24</p> <p>association [1] - 93:2</p> <p>assume [3] - 79:25, 86:12, 110:3</p> <p>ASSURANCE [1] - 1:8</p> <p>Assurance [23] - 6:13, 6:14, 7:10, 8:18, 61:2, 97:9, 99:8, 113:3, 117:6, 117:15, 119:23, 120:1, 120:22,</p> | <p>120:25, 121:6, 121:7, 122:5, 122:6, 122:9, 122:12, 122:14, 122:15, 122:17</p> <p>atmosphere [4] - 32:22, 33:2, 33:3</p> <p>attend [1] - 38:12</p> <p>attorney [3] - 83:8, 91:15, 91:20</p> <p>Attorney's [1] - 126:1</p> <p>attorney's [1] - 66:16</p> <p>attorneys [2] - 66:5, 91:19</p> <p>August [5] - 38:2, 46:1, 67:15, 116:5</p> <p>authorities [1] - 105:18</p> <p>availability [1] - 28:4</p> <p>available [9] - 8:2, 9:20, 15:15, 25:9, 28:25, 33:11, 48:23, 50:1, 59:25</p> <p>Avant [66] - 6:13, 6:14, 6:20, 7:2, 7:10, 7:13, 8:18, 11:23, 20:6, 22:5, 22:9, 23:10, 23:17, 23:20, 24:10, 25:1, 25:6, 25:20, 27:11, 27:23, 38:8, 38:24, 41:3, 43:1, 43:4, 43:16, 45:7, 45:12, 45:14, 45:22, 49:4, 49:8, 49:12, 49:14, 49:16, 49:19, 49:22, 51:25, 52:4, 58:17, 61:2, 87:23, 89:17, 97:9, 99:8, 100:1, 105:4, 106:9, 113:3, 117:4, 117:5, 117:14, 119:23, 120:1, 120:22, 120:25, 121:6, 121:7, 122:5, 122:6, 122:9, 122:12, 122:14, 122:15, 122:17</p> <p>AVANT [1] - 1:8</p> <p>Ave [2] - 1:16, 1:20</p> <p>Avenue [2] - 2:3, 128:16</p> <p>average [1] - 47:1</p> <p>avert [1] - 78:1</p> <p>avoid [1] - 93:11</p> <p>await [1] - 124:3</p> <p>award [3] - 30:7, 104:1</p> <p>awarded [1] - 102:1</p> <p>aware [1] - 27:15</p> | <p>B</p> <p>background [1] - 51:12</p> <p>bad [1] - 77:7</p> <p>balance [1] - 49:16</p> <p>bank [1] - 94:1</p> <p>Bankers [1] - 23:12</p> <p>bar [3] - 75:15, 105:22, 106:19</p> <p>bargained [1] - 113:8</p> <p>barred [3] - 105:5, 105:10, 106:11</p> <p>base [1] - 85:19</p> <p>based [20] - 8:24, 17:3, 23:1, 33:7, 33:9, 38:7, 39:12, 61:9, 79:22, 81:8, 81:16, 84:2, 85:13, 89:2, 89:14, 109:8, 114:17, 115:8, 117:19, 119:25</p> <p>basis [7] - 5:3, 14:18, 88:9, 96:24, 102:20, 115:9, 118:6</p> <p>bathroom [1] - 63:5</p> <p>Batista [4] - 36:12, 36:13, 93:9, 113:2</p> <p>BATISTA [1] - 1:4</p> <p>Beach [1] - 1:20</p> <p>beat [1] - 69:18</p> <p>beauty [1] - 85:17</p> <p>became [5] - 24:6, 43:10, 46:5, 86:9, 102:17</p> <p>become [3] - 24:9, 46:1, 123:7</p> <p>BEFORE [1] - 1:12</p> <p>beforehand [1] - 69:7</p> <p>begin [1] - 109:6</p> <p>beginning [3] - 27:9, 79:1, 98:18</p> <p>Behalf [3] - 3:20, 3:21, 3:21</p> <p>BEHALF [3] - 67:1, 77:2, 94:23</p> <p>behavior [3] - 80:16, 80:19, 91:25</p> <p>behind [7] - 28:17, 28:21, 33:6, 60:15, 69:3, 88:5, 98:5</p> <p>beliefs [1] - 123:8</p> <p>bell [2] - 35:5, 35:7</p> <p>below [1] - 94:4</p> <p>benefit [5] - 84:17, 122:12, 122:14, 122:16, 122:19</p> <p>benefits [5] - 8:12, 21:21, 88:11, 118:8, 118:11</p> |
|--|--|--|---|--|

July 13, 2023

3

Delio Batista, et al., v. Avant Assurance, Inc., 22-cv-22671-CMA

| | | | | |
|---|---|--|---|--|
| <p>best [9] - 21:6, 21:10, 21:14, 22:1, 22:18, 31:17, 69:19, 77:6, 84:1</p> <p>better [4] - 21:21, 25:21, 38:5, 73:21</p> <p>between [14] - 15:15, 17:19, 17:21, 17:25, 18:3, 44:14, 68:9, 85:10, 88:17, 100:16, 113:8, 114:15, 116:1, 117:18</p> <p>beyond [3] - 68:23, 78:20, 91:8</p> <p>big [17] - 14:3, 22:13, 26:5, 34:9, 55:23, 77:13, 78:22, 88:22, 89:5, 89:23, 89:25, 91:10, 91:23, 93:18, 97:16, 98:24</p> <p>bigger [2] - 16:17, 34:5</p> <p>binding [1] - 110:2</p> <p>bit [9] - 9:12, 11:9, 16:3, 24:10, 43:10, 64:9, 69:9, 79:5, 99:4</p> <p>biweekly [1] - 115:2</p> <p>blame [1] - 86:9</p> <p>blaming [1] - 84:9</p> <p>blank [4] - 126:10, 126:15, 126:19, 127:10</p> <p>bless [1] - 92:7</p> <p>blowing [2] - 98:24, 99:1</p> <p>blown [1] - 95:1</p> <p>Blue [2] - 60:18</p> <p>blue [1] - 44:8</p> <p>Blvd [1] - 1:23</p> <p>Bob [1] - 50:13</p> <p>bonus [30] - 12:12, 15:15, 15:25, 16:16, 17:4, 17:14, 17:20, 17:25, 18:24, 33:25, 34:6, 34:8, 34:11, 35:15, 35:25, 36:1, 40:25, 41:2, 48:24, 80:19, 83:4, 83:13, 83:17, 100:17, 114:22, 115:1, 115:5, 115:7</p> <p>bonuses [34] - 9:1, 10:23, 12:8, 12:11, 12:13, 12:15, 12:16, 16:15, 16:22, 16:23, 16:24, 17:6, 34:5, 34:9, 36:13, 36:23, 40:18, 43:13, 70:18,</p> | <p>78:11, 81:10, 95:20, 95:23, 96:24, 100:2, 100:24, 101:7, 114:20, 115:12, 115:13, 119:24, 120:2, 121:8, 122:7</p> <p>books [2] - 9:2, 35:1</p> <p>boss [2] - 97:11, 102:14</p> <p>bother [1] - 67:15</p> <p>bottom [1] - 40:17</p> <p>bought [1] - 56:2</p> <p>brags [1] - 83:16</p> <p>breach [2] - 120:2, 120:23</p> <p>breached [2] - 120:1, 121:7</p> <p>break [2] - 47:6, 104:9</p> <p>Brian [1] - 42:11</p> <p>BRIAN [1] - 1:14</p> <p>brian@ fairlawattorney. com [1] - 1:17</p> <p>brief [4] - 57:7, 61:23, 66:23, 104:9</p> <p>briefly [1] - 104:19</p> <p>Bright [1] - 17:13</p> <p>bring [24] - 4:6, 4:16, 5:12, 49:23, 49:24, 50:5, 50:8, 50:11, 53:17, 65:25, 77:16, 78:3, 78:7, 79:20, 80:21, 89:18, 89:20, 90:5, 93:20, 93:21, 97:2, 104:12, 123:23</p> <p>bringing [1] - 125:12</p> <p>broke [1] - 95:3</p> <p>broker [2] - 27:16, 27:17</p> <p>brought [9] - 16:7, 27:3, 50:2, 50:3, 50:6, 73:13, 77:14, 89:21, 89:22</p> <p>budget [1] - 22:25</p> <p>builds [1] - 97:19</p> <p>bunch [3] - 47:7, 74:7, 87:12</p> <p>burden [16] - 62:17, 68:5, 68:10, 68:15, 68:16, 68:24, 77:15, 78:6, 78:16, 80:14, 98:15, 99:4, 99:5, 112:10</p> <p>business [14] - 35:20, 41:14, 44:21, 61:2, 72:2, 74:6, 74:13, 90:14, 96:10, 102:10, 106:9, 118:25, 119:2, 119:16</p> | <p>busy [1] - 19:2</p> <p>buttons [1] - 20:15</p> <p>buying [2] - 48:3, 74:12</p> <p>buzzer [1] - 74:20</p> <p>BY [28] - 2:2, 6:7, 6:19, 10:17, 13:16, 15:21, 24:18, 26:16, 26:21, 28:10, 29:4, 29:9, 30:15, 30:25, 31:10, 33:1, 36:11, 39:19, 39:25, 40:7, 40:16, 41:9, 42:10, 52:11, 53:5, 53:15, 56:13, 57:6</p> | <p>88:11, 88:22, 98:14, 98:15, 98:18, 98:25, 101:1, 101:9, 103:9, 103:24, 109:2, 109:25, 110:4, 111:10, 112:7, 117:20, 121:15, 122:23, 123:2, 123:4, 123:5, 123:9, 123:12, 124:11, 125:3, 127:13, 127:24</p> <p>CASE [1] - 1:2</p> <p>cases [2] - 69:1, 126:2</p> <p>caught [2] - 50:24, 93:18</p> <p>causing [1] - 116:24</p> <p>caution [1] - 124:4</p> <p>cease [1] - 106:2</p> <p>CECILIA [1] - 1:12</p> <p>celebrate [1] - 35:15</p> <p>celebration [1] - 34:22</p> <p>cell [3] - 50:6, 53:17, 127:23</p> <p>center [10] - 6:21, 6:23, 6:24, 19:14, 72:20, 72:21, 74:14, 74:15, 96:8</p> <p>certain [15] - 10:24, 15:14, 24:19, 34:14, 35:15, 35:16, 35:17, 44:17, 45:2, 46:17, 53:12, 60:5, 69:10, 87:5, 117:25</p> <p>certainly [3] - 64:23, 65:4, 80:1</p> <p>Certificate..... [1] - 3:22</p> <p>certify [1] - 128:10</p> <p>chain [1] - 110:17</p> <p>chance [2] - 76:1, 104:18</p> <p>change [10] - 11:18, 70:8, 70:10, 73:11, 73:25, 80:4, 91:5, 123:6, 127:3, 127:9</p> <p>changed [2] - 73:21, 97:8</p> <p>changes [2] - 76:4, 124:25</p> <p>characterize [1] - 19:13</p> <p>charge [2] - 47:11, 65:22</p> <p>charts [1] - 17:11</p> <p>cheaper [1] - 74:5</p> <p>check [1] - 126:20</p> <p>checking [1] - 108:17</p> <p>CHIEF [1] - 1:12</p> <p>child [5] - 57:24, 58:1,</p> | <p>58:3, 58:6, 59:22</p> <p>children [3] - 9:16, 10:3, 27:2</p> <p>choice [1] - 79:17</p> <p>choose [2] - 10:18, 123:13</p> <p>choosing [1] - 51:10</p> <p>chose [8] - 10:11, 24:4, 32:20, 35:14, 38:6, 52:24, 53:21, 89:4</p> <p>Christmas [2] - 75:24</p> <p>circumstances [8] - 86:22, 110:18, 117:1, 119:8, 120:15, 121:23, 122:2, 122:17</p> <p>circumstantial [3] - 110:13, 110:17, 110:20</p> <p>civil [5] - 67:2, 67:10, 68:5, 68:6, 68:9</p> <p>claim [25] - 63:15, 63:20, 82:24, 89:20, 102:3, 105:1, 105:7, 105:9, 105:22, 106:18, 112:15, 112:17, 112:18, 113:1, 113:3, 113:15, 113:22, 114:14, 116:10, 116:12, 119:23, 122:3, 122:6, 122:9, 122:10</p> <p>claim[s] [1] - 112:8</p> <p>claimed [2] - 106:13, 114:16</p> <p>claiming [4] - 83:13, 84:19, 96:20, 107:6</p> <p>claims [7] - 63:13, 66:19, 102:4, 105:4, 112:13, 112:25, 116:14</p> <p>classified [2] - 70:24, 90:19</p> <p>clean [6] - 62:22, 107:21, 108:11, 125:6, 126:3, 126:4</p> <p>clear [5] - 32:17, 32:18, 117:9, 117:10, 120:8</p> <p>cleared [1] - 32:19</p> <p>clearly [1] - 111:15</p> <p>click [1] - 50:17</p> <p>clicked [2] - 74:17, 103:1</p> <p>clicking [1] - 74:20</p> <p>clicks [1] - 50:14</p> <p>client [28] - 12:7, 20:1, 20:4, 20:6, 20:25,</p> |
| C | | | | |
| <p>calculate [1] - 82:9</p> <p>calculated [1] - 100:12</p> <p>calculating [2] - 114:20, 115:10</p> <p>calculation [1] - 92:11</p> <p>calculations [3] - 81:18, 90:8, 91:7</p> <p>calm [1] - 33:3</p> <p>cameras [1] - 96:7</p> <p>cannot [3] - 38:12, 113:8, 113:9</p> <p>Capote [2] - 99:9, 127:6</p> <p>car [8] - 47:24, 84:11, 87:18, 87:19, 87:22, 97:24, 102:22</p> <p>care [3] - 40:9, 79:11, 85:8</p> <p>carefully [1] - 66:16</p> <p>CARLOS [1] - 1:4</p> <p>Carlos [18] - 48:15, 69:12, 71:13, 72:12, 85:9, 88:2, 93:23, 97:13, 97:15, 97:23, 99:7, 99:17, 100:13, 100:14, 100:15, 102:11, 113:2</p> <p>carpenter [2] - 89:6, 89:7</p> <p>carrier [7] - 8:20, 12:11, 15:25, 17:4, 21:20, 21:24, 34:25</p> <p>carriers [3] - 20:5, 40:23, 49:11</p> <p>cars [1] - 48:3</p> <p>case [45] - 24:5, 48:9, 61:21, 61:23, 66:13, 68:7, 68:17, 68:19, 68:21, 68:23, 70:3, 70:23, 72:4, 75:18, 75:19, 77:16, 79:24,</p> | | | | |

July 13, 2023

4

Delio Batista, et al., v. Avant Assurance, Inc., 22-cv-22671-CMA

| | | | | |
|---|---|--|---|---|
| <p>21:1, 21:3, 21:8, 21:11, 21:12, 21:16, 22:1, 22:14, 22:16, 22:20, 24:25, 34:24, 41:13, 41:16, 47:5, 47:11, 47:13, 56:14, 57:21, 60:7, 67:23, 74:18, 104:1</p> <p>clients [48] - 7:9, 11:14, 11:15, 12:2, 19:21, 20:20, 21:8, 21:14, 21:19, 22:19, 24:21, 29:3, 29:14, 34:25, 41:22, 41:23, 46:21, 47:14, 48:10, 49:24, 60:5, 69:6, 69:22, 70:15, 70:17, 70:20, 70:24, 71:10, 71:12, 72:17, 72:25, 73:25, 74:14, 75:9, 76:15, 95:18, 96:2, 96:15, 96:25, 97:1, 97:10, 100:7, 101:18, 102:6, 102:16, 103:9, 103:20, 106:22</p> <p>close [6] - 12:4, 12:5, 66:8, 66:23, 87:24, 99:3</p> <p>closed [1] - 54:2</p> <p>closer [2] - 16:3, 43:9</p> <p>Closing [3] - 3:20, 3:21, 3:22</p> <p>closing [8] - 62:11, 63:25, 64:9, 64:22, 66:5, 66:10, 67:8, 124:17</p> <p>CLOSING [3] - 67:1, 77:2, 108:24</p> <p>CMS [1] - 19:22</p> <p>colleagues [3] - 32:11, 32:20, 45:16</p> <p>Collins [1] - 1:20</p> <p>Colombia [4] - 61:2, 61:4, 74:13, 88:3</p> <p>comfortable [1] - 49:12</p> <p>coming [10] - 29:1, 69:25, 70:1, 78:18, 80:12, 84:9, 87:10, 91:7, 95:6, 107:20</p> <p>comments [2] - 36:8, 68:2</p> <p>commiserate [2] - 94:17, 94:20</p> <p>commission [25] - 8:22, 8:24, 9:1, 10:22, 12:5, 16:14, 34:6, 83:4, 83:6, 88:5, 88:9, 96:18,</p> | <p>100:10, 100:11, 100:17, 102:20, 102:24, 114:22, 114:25, 115:1, 115:5, 115:6, 115:7, 118:6</p> <p>commissions [24] - 8:12, 36:13, 36:23, 70:18, 78:11, 79:15, 80:6, 91:12, 95:19, 95:23, 96:15, 96:24, 100:2, 100:16, 100:21, 100:24, 101:8, 114:19, 115:11, 115:13, 119:25, 120:2, 121:8, 122:7</p> <p>committed [1] - 104:22</p> <p>common [4] - 37:6, 43:25, 45:5, 110:11</p> <p>commonly [1] - 114:13</p> <p>communicate [1] - 123:21</p> <p>communication [1] - 41:13</p> <p>commute [4] - 43:4, 43:5, 43:10, 58:17</p> <p>Comp [2] - 74:8, 95:21</p> <p>comp [1] - 43:11</p> <p>companies [11] - 40:19, 42:2, 79:3, 79:5, 79:7, 79:11, 84:16, 85:20, 85:24, 93:15, 103:21</p> <p>company [12] - 15:2, 24:3, 27:8, 27:19, 33:23, 40:24, 71:23, 72:1, 79:8, 86:8, 92:25, 109:23</p> <p>compensable [1] - 114:1</p> <p>compensated [2] - 103:4, 118:15</p> <p>compensation [9] - 8:24, 9:7, 9:8, 14:16, 40:19, 43:12, 114:23, 115:8, 117:7</p> <p>competition [2] - 35:18, 35:20</p> <p>complain [2] - 36:7, 97:18</p> <p>complained [4] - 70:18, 97:12, 97:14</p> <p>complaints [2] - 33:22, 70:19</p> <p>complete [3] - 57:21, 96:24</p> <p>completely [1] - 85:19</p> | <p>completes [2] - 87:6, 118:2</p> <p>completing [1] - 20:20</p> <p>component [1] - 8:25</p> <p>compromise [1] - 27:1</p> <p>compromised [2] - 24:7, 113:11</p> <p>computation [1] - 115:7</p> <p>compute [1] - 115:8</p> <p>computed [1] - 115:2</p> <p>computer [15] - 55:8, 55:9, 55:24, 56:1, 74:16, 76:16, 84:10, 87:25, 89:16, 89:18, 97:3, 98:6, 103:20, 103:22, 125:23</p> <p>computers [3] - 49:24, 50:1, 74:11</p> <p>computing [1] - 114:25</p> <p>concept [1] - 89:16</p> <p>concerned [1] - 110:12</p> <p>concerning [4] - 26:17, 62:14, 111:2, 122:21</p> <p>concierge [2] - 79:8, 93:2</p> <p>conclude [1] - 120:15</p> <p>conclusion [1] - 78:25</p> <p>conclusions [1] - 110:11</p> <p>conclusively [1] - 88:18</p> <p>condition [1] - 21:12</p> <p>conditions [3] - 22:24, 121:5</p> <p>conductive [1] - 91:25</p> <p>conduct [12] - 105:3, 105:6, 106:4, 106:18, 120:16, 121:18, 121:19, 121:21, 121:24, 121:25, 122:1</p> <p>conducted [1] - 13:5</p> <p>confidential [1] - 23:9</p> <p>confidentiality [1] - 23:5</p> <p>confusing [1] - 30:19</p> <p>consent [4] - 19:20, 19:21, 20:12, 20:21</p> <p>consequence [1] - 30:20</p> <p>consequences [8] - 32:14, 54:11, 54:13, 54:17, 59:7, 59:10, 59:11, 59:14</p> <p>consider [11] - 43:15, 65:22, 109:24,</p> | <p>110:21, 112:18, 112:20, 117:1, 117:19, 119:8, 120:18, 122:1</p> <p>consideration [2] - 78:18, 86:23</p> <p>considered [3] - 105:9, 105:19, 113:23</p> <p>considering [3] - 64:7, 110:10, 123:3</p> <p>considers [2] - 117:9, 117:11</p> <p>consistent [1] - 125:7</p> <p>consists [4] - 65:17, 107:5, 124:15, 124:17</p> <p>constituted [1] - 106:5</p> <p>constituting [1] - 106:19</p> <p>Cont'd [2] - 3:9, 13:15</p> <p>contact [3] - 21:2, 60:5, 127:24</p> <p>contends [1] - 105:4</p> <p>contention [1] - 112:15</p> <p>context [1] - 67:17</p> <p>continue [5] - 13:6, 27:7, 57:14, 80:5, 80:20</p> <p>CONTINUED [1] - 2:1</p> <p>contract [23] - 7:18, 7:19, 20:1, 43:15, 82:24, 82:25, 87:6, 96:21, 96:22, 100:7, 113:10, 120:8, 120:14, 120:17, 120:23, 121:11, 121:12, 121:15, 121:17, 121:21, 121:24, 121:25</p> <p>contracting [3] - 23:14, 23:18, 24:11</p> <p>contractor [46] - 8:7, 8:8, 11:23, 14:12, 25:11, 26:6, 43:22, 45:23, 46:10, 51:23, 58:25, 59:3, 71:5, 71:24, 74:2, 74:5, 74:6, 76:4, 79:18, 82:14, 84:2, 84:6, 84:11, 84:13, 84:21, 85:18, 86:10, 86:15, 87:4, 88:12, 88:17, 89:10, 90:21, 91:1, 102:8, 102:25, 106:13, 107:6, 117:25, 118:2, 118:3, 118:9, 118:13, 118:19,</p> | <p>119:17, 119:20</p> <p>contractors [35] - 70:25, 71:2, 72:1, 75:17, 76:18, 79:21, 82:12, 82:19, 82:21, 83:21, 84:9, 84:20, 84:24, 86:5, 86:14, 86:19, 86:25, 87:21, 88:18, 89:9, 90:1, 90:11, 90:20, 91:3, 91:4, 96:9, 103:16, 107:9, 113:14, 116:9, 117:13, 117:16, 118:23, 119:15</p> <p>Contracts [1] - 120:3</p> <p>contracts [20] - 100:7, 100:10, 101:1, 119:24, 120:1, 120:5, 120:6, 120:13, 120:14, 120:21, 121:1, 121:3, 121:6, 121:7, 121:8, 121:18, 121:19, 121:20, 122:5</p> <p>contrast [2] - 87:4, 117:24</p> <p>control [11] - 71:10, 81:2, 83:24, 84:4, 86:25, 87:2, 96:25, 102:9, 117:4, 117:23, 119:10</p> <p>controlled [7] - 81:2, 81:3, 87:1, 96:6, 96:12, 117:5, 117:21</p> <p>controlling [4] - 90:17, 102:6, 103:11, 119:6</p> <p>convenience [1] - 123:16</p> <p>convenient [3] - 57:16, 57:20, 76:12</p> <p>conversation [4] - 20:25, 27:18, 37:6, 37:7</p> <p>conveyed [1] - 9:4</p> <p>convince [1] - 75:3</p> <p>convinced [1] - 123:7</p> <p>cool [2] - 74:5, 94:24</p> <p>copies [1] - 65:1</p> <p>copy [2] - 62:20, 91:15</p> <p>Coral [2] - 1:16, 1:24</p> <p>corporation [4] - 109:15, 109:16, 109:18, 109:20</p> <p>corporations [1] - 84:14</p> <p>correct [32] - 9:11, 10:5, 10:12, 10:14,</p> |
|---|---|--|---|---|

July 13, 2023

5

Delio Batista, et al., v. Avant Assurance, Inc., 22-cv-22671-CMA

| | | | | |
|--|---|--|---|--|
| <p>13:19, 14:13, 15:1, 18:1, 18:7, 18:25, 19:6, 19:7, 19:18, 22:11, 24:11, 24:12, 25:16, 25:25, 26:7, 28:11, 28:14, 34:15, 40:10, 43:3, 46:6, 51:13, 54:17, 55:25, 56:9, 85:23, 126:24</p> <p>corrected [2] - 126:22, 127:7</p> <p>correctly [2] - 20:22, 33:19</p> <p>CORTES [1] - 1:8</p> <p>Cortes [27] - 4:15, 7:15, 9:10, 43:19, 48:18, 57:8, 69:15, 70:12, 70:17, 71:22, 73:7, 73:9, 73:16, 74:13, 96:6, 96:22, 97:1, 97:10, 97:11, 97:23, 98:1, 99:9, 102:5, 113:4, 117:3, 117:4, 117:15</p> <p>Cortes's [1] - 61:2</p> <p>cost [2] - 47:2, 47:20</p> <p>counsel [8] - 4:4, 4:12, 12:17, 13:2, 66:21, 66:22, 76:22</p> <p>count [2] - 12:14, 41:16</p> <p>counted [1] - 114:5</p> <p>country [2] - 81:1, 92:17</p> <p>couple [7] - 18:17, 50:5, 52:21, 73:1, 76:21, 85:9, 103:2</p> <p>course [10] - 15:9, 20:25, 22:13, 22:15, 23:8, 62:18, 63:6, 75:6, 109:19, 122:20</p> <p>court [8] - 81:14, 97:7, 107:8, 108:22, 109:18, 123:15, 123:22, 123:23</p> <p>COURT [122] - 1:1, 4:3, 4:6, 4:8, 4:14, 4:16, 4:19, 4:24, 5:3, 5:5, 5:8, 5:12, 5:15, 5:18, 5:24, 6:2, 6:5, 6:16, 10:16, 12:22, 12:25, 13:6, 13:10, 24:14, 26:15, 26:20, 28:20, 30:12, 30:14, 30:24, 31:9, 32:25, 36:10, 39:18, 39:23, 40:5, 40:12, 40:15, 41:8, 52:9, 53:3, 53:10, 56:12, 57:3, 61:13, 61:17, 61:20,</p> | <p>61:22, 61:24, 62:1, 62:7, 62:10, 63:1, 63:6, 63:9, 63:11, 63:15, 63:17, 63:19, 63:22, 63:24, 64:4, 64:11, 64:14, 64:16, 64:20, 64:23, 65:4, 65:7, 65:9, 65:11, 65:13, 65:14, 65:25, 66:2, 76:22, 76:24, 86:2, 94:19, 94:21, 95:12, 103:13, 104:4, 104:8, 104:15, 104:20, 105:13, 105:20, 106:3, 106:11, 106:17, 106:23, 107:1, 107:3, 107:11, 107:15, 107:19, 107:25, 108:5, 108:8, 108:10, 108:15, 108:16, 108:18, 108:21, 108:25, 125:11, 125:17, 125:19, 125:22, 126:1, 126:6, 126:10, 126:15, 126:20, 127:3, 127:9, 127:14, 127:18, 127:20, 127:23, 128:3</p> <p>Court [6] - 2:2, 3:22, 63:10, 113:12, 126:7, 128:15</p> <p>COURT'S [1] - 108:24</p> <p>court's [1] - 54:20</p> <p>Court's [1] - 3:22</p> <p>courteous [2] - 44:8, 44:11</p> <p>courtesy [17] - 10:8, 28:24, 29:21, 29:25, 30:21, 31:1, 32:13, 32:17, 32:20, 44:1, 44:2, 44:5, 45:5, 54:10, 102:13, 102:15</p> <p>Courtroom [1] - 1:7</p> <p>COURTROOM [4] - 4:2, 108:17, 126:17, 127:1</p> <p>courtroom [18] - 4:7, 48:10, 48:14, 50:12, 61:25, 66:1, 67:12, 73:3, 73:14, 73:22, 104:9, 104:12, 104:14, 108:20, 123:20, 123:25, 125:11, 125:18</p> <p>courts [1] - 67:4</p> | <p>cover [1] - 115:13</p> <p>coverage [1] - 29:2</p> <p>covered [1] - 44:13</p> <p>COVID [4] - 55:20, 57:7, 93:18</p> <p>create [3] - 119:19, 121:21, 126:11</p> <p>created [5] - 120:6, 120:21, 121:18, 121:19, 121:25</p> <p>creating [1] - 121:24</p> <p>criminal [2] - 68:19, 126:2</p> <p>cross [2] - 78:21, 97:2</p> <p>Cross [2] - 3:9, 60:18</p> <p>CROSS [1] - 42:9</p> <p>cross-examination [1] - 78:21</p> <p>Cross-Examination [1] - 3:9</p> <p>CROSS-EXAMINATION [1] - 42:9</p> <p>cross-examined [1] - 97:2</p> <p>crossed [1] - 5:1</p> <p>Cuba [1] - 92:18</p> <p>CUETO [22] - 1:22, 4:4, 4:12, 4:15, 5:6, 5:10, 5:14, 6:7, 6:19, 10:17, 12:17, 63:7, 105:12, 105:14, 106:2, 106:16, 106:21, 106:25, 107:2, 107:7, 107:13, 107:18</p> <p>Cueto [3] - 1:23, 3:8, 13:6</p> <p>Cummings [1] - 108:3</p> <p>CUMMINGS [3] - 1:15, 63:4, 125:23</p> <p>current [1] - 6:20</p> <p>curtain [1] - 98:6</p> <p>customers [1] - 87:23</p> | <p>DATE [1] - 128:15</p> <p>DAY [1] - 1:11</p> <p>day-to-day [1] - 117:6</p> <p>days [11] - 53:23, 75:14, 77:21, 85:1, 85:9, 92:6, 92:14, 92:15, 92:19, 101:22</p> <p>De [1] - 1:23</p> <p>dead [1] - 88:23</p> <p>dead-end [1] - 88:23</p> <p>deadline [1] - 19:6</p> <p>deadlines [1] - 19:4</p> <p>deal [4] - 45:21, 48:4, 74:9, 97:16</p> <p>dealership [1] - 47:24</p> <p>deals [1] - 101:15</p> <p>dealt [1] - 109:17</p> <p>December [1] - 33:14</p> <p>deception [1] - 112:4</p> <p>decide [10] - 69:1, 74:21, 76:11, 86:18, 110:23, 111:3, 112:3, 117:14, 123:2, 124:10</p> <p>decided [2] - 24:9, 32:3</p> <p>decides [1] - 81:23</p> <p>deciding [4] - 51:22, 109:1, 112:19, 121:25</p> <p>decision [12] - 26:5, 68:17, 77:17, 77:18, 83:2, 85:20, 86:24, 109:8, 109:16, 110:7, 110:25, 112:4</p> <p>deductible [1] - 21:17</p> <p>deductions [4] - 84:10, 84:18, 86:5, 110:11</p> <p>Defendant [2] - 104:25, 105:2</p> <p>Defendant's [1] - 127:4</p> <p>Defendants [25] - 1:10, 4:22, 5:2, 5:22, 66:4, 66:20, 70:24, 71:1, 71:21, 74:1, 95:20, 96:6, 100:23, 103:16, 104:15, 113:1, 113:3, 113:15, 113:19, 113:20, 113:24, 116:10, 116:15, 117:2, 119:15</p> <p>DEFENDANTS [3] - 1:19, 3:6, 77:2</p> <p>Defendants' [2] - 3:14, 116:12</p> <p>Defendants..... [1] - 3:21</p> | <p>defense [14] - 61:19, 63:12, 63:20, 65:15, 65:18, 76:22, 104:16, 104:24, 105:17, 106:4, 106:11, 106:24, 107:4, 107:7</p> <p>Defense [4] - 62:8, 62:14, 65:14, 66:22</p> <p>defenses [1] - 66:19</p> <p>definitely [11] - 11:25, 19:11, 25:10, 26:9, 27:2, 34:19, 34:22, 36:4, 36:17, 54:14, 74:22</p> <p>definitions [1] - 90:4</p> <p>defraud [1] - 106:8</p> <p>degree [1] - 83:24</p> <p>deliberate [2] - 66:7, 82:4</p> <p>deliberations [6] - 109:4, 109:6, 122:25, 123:15, 125:18, 128:4</p> <p>Delio [20] - 35:25, 36:2, 36:12, 48:14, 69:12, 79:4, 80:11, 83:10, 85:9, 86:8, 92:22, 93:9, 94:8, 99:7, 99:20, 99:22, 100:2, 100:3, 100:8, 113:2</p> <p>DELIO [1] - 1:4</p> <p>demonstrate [1] - 104:25</p> <p>demonstrates [1] - 103:19</p> <p>demonstrative [1] - 108:6</p> <p>demonstratives [1] - 108:8</p> <p>denied [1] - 62:10</p> <p>deny [1] - 68:19</p> <p>denying [1] - 74:25</p> <p>Department [1] - 113:12</p> <p>dependants [2] - 18:15, 18:17</p> <p>dependence [1] - 103:19</p> <p>dependent [9] - 21:22, 24:23, 49:8, 52:23, 55:15, 71:20, 96:11, 103:15, 119:15</p> <p>deposit [3] - 39:9, 39:10, 39:13</p> <p>deposition [4] - 73:12, 83:18, 100:18, 100:20</p> <p>deposits [1] - 52:22</p> |
| D | | | | |
| <p>daily [1] - 115:2</p> <p>damaged [1] - 121:10</p> <p>damages [9] - 101:21, 115:17, 116:1, 116:3, 116:19, 116:23, 120:3, 120:22, 122:21</p> <p>DANIEL [1] - 1:19</p> <p>Daniel [1] - 1:19</p> <p>dantropp@bellsouth.net [1] - 1:21</p> <p>date [4] - 29:7, 101:8, 116:4, 123:19</p> | | | | |

July 13, 2023

6

Delio Batista, et al., v. Avant Assurance, Inc., 22-cv-22671-CMA

| | | | | |
|--|---|---|--|--|
| deputy [2] - 104:9, 125:11 DEPUTY [5] - 4:2, 108:15, 108:17, 126:17, 127:1 describe [1] - 11:9 described [1] - 107:2 description [3] - 90:16, 103:10, 119:5 desired [2] - 87:5, 118:1 desist [1] - 106:2 desks [2] - 14:5, 14:6 detail [2] - 51:13, 112:6 details [4] - 34:5, 61:4, 87:5, 118:1 determination [1] - 119:13 determinations [1] - 82:17 determine [9] - 50:17, 82:19, 83:23, 84:1, 86:19, 115:15, 115:19, 115:22, 116:25 determined [3] - 87:7, 115:11, 118:3 determines [1] - 119:9 determining [1] - 98:3 develop [2] - 22:2, 94:7 differ [1] - 111:16 difference [14] - 16:12, 17:21, 17:23, 44:14, 54:14, 54:16, 68:9, 88:16, 91:23, 97:7, 100:14, 110:19, 114:15, 116:1 different [15] - 11:16, 16:14, 16:21, 16:24, 17:4, 21:7, 21:11, 35:11, 43:13, 47:7, 47:9, 70:19, 73:10, 96:16, 111:22 differently [1] - 123:8 difficult [2] - 101:20, 116:13 Direct [2] - 3:8, 3:9 direct [6] - 67:23, 110:12, 110:14, 110:20, 117:7, 123:14 DIRECT [2] - 6:6, 13:15 directed [1] - 62:6 direction [1] - 21:5 directly [5] - 93:11, 105:1, 105:2, 105:6, | 111:15 disagree [1] - 70:9 disbelieve [1] - 110:25 discrepancies [1] - 39:21 discrepancy [3] - 38:25, 39:16, 40:2 discretionary [1] - 114:20 discuss [5] - 26:17, 26:22, 53:6, 61:23, 123:4 discussed [3] - 23:8, 39:1, 39:16 discussing [1] - 123:5 discussion [1] - 37:10 discussions [2] - 27:22, 109:6 dishes [1] - 58:21 display [1] - 63:3 disprove [1] - 110:18 dispute [2] - 102:5, 102:6 disregard [2] - 109:13, 110:5 distance [2] - 50:21, 98:23 distinction [2] - 68:8, 68:10 distract [1] - 82:6 distracted [1] - 58:20 distraction [1] - 69:5 DISTRICT [3] - 1:1, 1:1, 1:12 divide [3] - 81:17, 93:25, 115:15 dividing [1] - 115:11 DIVISION [1] - 1:2 dizzy [1] - 90:7 Docket [1] - 107:5 doctor [1] - 89:10 doctrine [3] - 104:21, 106:12, 106:20 document [2] - 15:17, 43:12 documents [3] - 70:21, 71:10, 71:11 dollars [3] - 21:17, 47:21, 81:21 done [4] - 13:3, 42:7, 87:3, 117:24 door [3] - 102:25, 125:13 doubt [2] - 68:23, 70:22 down [14] - 17:18, 29:12, 29:13, 37:5, 46:19, 47:6, 53:20, 56:23, 68:22, 70:6, 74:15, 81:6, 88:24, | 123:22 draft [1] - 125:5 drafting [2] - 105:12, 105:14 drive [6] - 76:7, 87:19, 95:14, 125:21, 126:17, 126:18 driven [1] - 50:20 drivers [1] - 87:19 driving [2] - 50:23, 76:8 drop [2] - 98:21, 127:12 droves [1] - 87:10 DS [1] - 89:16 due [1] - 115:10 during [25] - 8:3, 11:16, 12:23, 15:16, 29:11, 31:3, 47:2, 48:5, 48:11, 48:16, 48:20, 49:4, 55:22, 57:7, 59:15, 59:21, 60:21, 66:10, 66:11, 79:5, 109:4, 110:6, 111:23, 115:12, 124:16 duties [3] - 6:22, 7:6, 109:22 dying [1] - 67:3 | 49:8, 103:15, 119:14 effect [3] - 33:20, 36:20, 36:21 effort [1] - 95:10 either [16] - 17:19, 18:3, 18:21, 21:8, 30:5, 39:14, 40:2, 43:19, 46:13, 57:19, 66:12, 83:20, 109:10, 110:20, 113:11, 123:24 electronic [1] - 20:16 eleventh [1] - 107:16 elicits [1] - 39:22 eligible [4] - 11:11, 11:13, 16:14, 17:14 ELMO [2] - 63:2, 98:10 Elmo [1] - 95:11 employed [6] - 6:10, 6:12, 84:15, 97:9, 97:10, 117:12 employee [51] - 8:7, 23:18, 23:23, 37:24, 46:2, 46:5, 51:22, 59:10, 71:4, 74:2, 76:4, 76:18, 76:19, 82:16, 82:17, 84:3, 86:25, 87:2, 88:17, 88:20, 90:25, 91:5, 100:22, 101:5, 102:8, 102:17, 102:20, 102:23, 103:7, 113:10, 113:22, 114:2, 114:3, 114:5, 114:7, 114:10, 114:11, 115:6, 115:16, 115:20, 115:21, 117:6, 117:10, 118:6, 118:9, 118:15, 118:21, 119:13, 119:16, 119:20 employee's [5] - 87:2, 114:8, 114:22, 115:9, 117:23 employees [25] - 38:16, 82:19, 82:21, 86:18, 90:13, 95:2, 95:24, 96:3, 97:6, 99:8, 99:12, 99:13, 101:18, 102:2, 103:23, 107:8, 109:20, 109:21, 109:22, 113:9, 113:18, 115:17, 116:7, 117:14, 119:1 employer [18] - 71:15, 82:12, 82:16, 82:17, 84:3, 84:17, 86:6, | 88:21, 93:6, 102:19, 114:2, 114:4, 114:11, 117:11, 117:22, 118:5, 118:7, 118:17 employer's [2] - 88:9, 97:17 employer/employee [1] - 117:22 employers [7] - 90:14, 101:17, 113:9, 114:7, 116:6, 116:8, 119:2 employment [2] - 38:16, 119:19 end [11] - 12:5, 20:16, 21:10, 21:25, 27:19, 52:18, 54:9, 67:20, 88:23, 105:18, 124:18 engage [1] - 113:23 enriched [1] - 122:9 enrichment [8] - 63:16, 63:17, 100:25, 105:5, 105:10, 105:22, 106:15, 106:20 enroll [3] - 15:12, 20:3, 29:14 enrolled [5] - 8:4, 9:2, 12:10, 12:15, 20:9 enrolling [2] - 39:4, 39:5 enrollment [34] - 8:3, 9:14, 10:21, 11:8, 11:9, 11:10, 11:11, 11:16, 11:17, 11:21, 13:23, 15:16, 16:4, 16:15, 16:19, 16:25, 19:1, 28:2, 29:12, 31:3, 47:2, 48:5, 48:11, 48:16, 48:20, 59:16, 60:21, 71:23, 92:5, 93:16, 93:17, 94:9, 99:18, 100:9 enrollments [1] - 39:8 entered [7] - 4:7, 66:1, 108:20, 119:24, 120:25, 121:16, 122:5 entering [1] - 7:25 entertain [1] - 53:21 entire [4] - 13:4, 72:1, 86:20, 117:18 entitled [6] - 71:5, 101:4, 115:17, 116:3, 124:13, 128:12 Entry [1] - 107:5 equal [3] - 54:5, |
| E | | | | |
| e-mail [8] - 39:10, 39:12, 40:8, 43:19, 43:24, 80:6, 80:20, 127:7 e-mailed [1] - 65:14 e-mails [1] - 97:13 earliest [1] - 62:21 early [5] - 46:9, 46:11, 64:8, 64:13, 67:13 earn [3] - 12:12, 34:8, 96:10 earned [12] - 33:25, 40:25, 104:3, 114:10, 114:15, 114:16, 115:6, 115:12, 115:14, 115:16, 116:4, 120:2 earnings [1] - 115:2 eased [1] - 25:10 easier [4] - 25:1, 25:4, 25:8, 58:14 Eastern [1] - 61:3 easy [4] - 56:16, 58:20, 84:7, 98:13 economic [5] - 83:24, 86:20, 88:15, 117:17, 119:22 economically [3] - | | | | |

July 13, 2023

7

Delio Batista, et al., v. Avant Assurance, Inc., 22-cv-22671-CMA

| | | | | |
|--|--|--|--|--|
| <p>109:17, 115:6 equals [1] - 109:18 equipment [4] - 50:7, 103:7, 118:18, 118:20 equitable [4] - 63:15, 104:21, 104:22, 106:20 equity [2] - 63:14, 104:23 especially [2] - 28:1, 34:4 ESQ [4] - 1:14, 1:15, 1:19, 1:22 Esquire [1] - 1:19 essential [8] - 25:12, 112:8, 112:14, 112:24, 120:8, 120:12, 120:14, 121:3 essentially [1] - 45:4 establish [3] - 112:14, 112:24, 122:10 estimated [1] - 100:3 estimation [3] - 101:21, 116:18, 116:20 Etna [1] - 17:13 evasive [2] - 78:1, 93:10 evening [2] - 75:22, 125:14 event [1] - 122:4 eventually [1] - 27:11 evidence [56] - 66:13, 66:15, 68:4, 68:11, 68:12, 68:15, 68:16, 68:17, 69:1, 69:2, 69:10, 69:11, 69:13, 70:15, 70:23, 72:4, 73:4, 77:22, 85:25, 86:3, 95:18, 96:1, 97:9, 98:7, 98:14, 101:13, 103:9, 108:2, 108:7, 109:8, 109:24, 109:25, 110:2, 110:9, 110:10, 110:12, 110:14, 110:17, 110:20, 110:21, 110:22, 111:17, 111:19, 111:20, 112:9, 112:11, 112:12, 112:15, 112:20, 112:22, 112:25, 113:17, 116:20, 117:19, 123:3, 123:12 EVIDENCE [1] - 3:12 exact [7] - 17:8, 53:13,</p> | <p>99:23, 99:25, 101:20, 116:14 exactly [10] - 9:6, 16:11, 36:21, 45:21, 54:3, 54:17, 60:16, 100:3, 105:23, 127:1 exam [2] - 22:12, 75:7 EXAMINATION [5] - 6:6, 13:15, 42:9, 52:10, 57:5 examination [2] - 13:3, 78:21 Examination [5] - 3:8, 3:9, 3:9, 3:10, 3:10 examinations [1] - 67:23 examine [3] - 99:3, 120:13, 123:6 examined [1] - 97:2 example [3] - 52:17, 57:18, 117:11 Excel [1] - 90:6 except [4] - 61:1, 64:24, 68:18, 110:4 exciting [3] - 34:5, 34:18, 34:19 excuse [2] - 71:13, 100:16 excused [4] - 61:14, 61:16, 63:4, 121:4 executive [3] - 23:12, 23:21, 23:23 exercise [1] - 100:19 Exhibit [2] - 3:13, 3:14 exhibit [3] - 15:20, 28:9, 63:10 exhibits [6] - 110:1, 112:22, 125:8, 125:19, 127:11, 127:23 EXHIBITS [1] - 3:12 existing [1] - 11:14 exited [3] - 61:25, 104:14, 125:18 exiting [1] - 35:3 expectation [1] - 37:10 expectations [3] - 14:25, 15:2, 38:10 expected [2] - 24:7, 42:20 expenses [2] - 71:25, 74:11 experience [2] - 22:4, 72:8 expertise [1] - 51:22 explain [4] - 19:25, 54:1, 109:11, 123:1 explained [2] - 14:24, 16:1</p> | <p>explains [1] - 20:22 explanation [3] - 95:6, 101:24, 102:3 express [1] - 121:16 extensions [1] - 19:6 extent [3] - 35:17, 116:21, 119:10 eyewitness [1] - 110:16</p> <p style="text-align: center;">F</p> <p>faces [2] - 88:19, 118:14 fact [13] - 38:8, 61:1, 69:4, 84:13, 85:20, 97:15, 109:15, 110:15, 110:18, 111:20, 112:6, 112:19, 122:20 factor [9] - 16:15, 16:17, 16:24, 88:8, 89:25, 90:15, 117:2, 119:9, 119:12 factors [7] - 71:8, 71:9, 86:16, 86:17, 117:19, 119:12 facts [7] - 69:10, 69:13, 110:7, 110:17, 113:16, 121:14, 123:11 factual [1] - 110:4 fail [1] - 100:1 failed [5] - 100:24, 101:19, 113:20, 116:10, 116:15 failing [1] - 120:1 fails [2] - 112:14, 112:24 failure [2] - 116:12, 121:10 Fair [2] - 71:5, 113:5 fair [3] - 14:8, 51:23, 51:24 FairLaw [1] - 1:15 fairly [3] - 14:10, 20:19 fairness [2] - 113:11, 122:18 fall [1] - 35:1 falls [1] - 21:15 falsely [1] - 111:19 families [2] - 75:25, 104:3 Family [2] - 23:13, 23:21 family [1] - 75:21 far [23] - 8:21, 11:25, 12:14, 16:12, 17:4, 18:16, 24:24, 29:13, 29:14, 29:21, 31:13,</p> | <p>37:8, 38:10, 38:21, 45:22, 49:7, 49:21, 51:11, 51:25, 53:13, 54:24, 99:11, 99:25 favor [1] - 49:18 feather [1] - 98:20 federal [1] - 73:22 fees [1] - 102:20 fell [2] - 26:2, 34:4 felt [3] - 49:11, 50:3, 52:22 few [6] - 21:4, 27:9, 90:13, 91:10, 111:4, 119:2 fiduciary [1] - 22:19 figure [3] - 80:10, 81:16, 85:10 figured [2] - 77:4, 93:24 file [1] - 80:22 filed [3] - 67:16, 85:21, 116:5 filing [1] - 84:8 fill [9] - 19:20, 44:22, 44:25, 45:6, 55:18, 98:14, 104:11, 123:19, 125:7 filled [2] - 45:7, 125:4 filling [1] - 92:12 final [2] - 12:14, 125:1 fine [5] - 11:5, 13:8, 31:22, 50:8, 127:8 finish [2] - 82:4, 94:15 finished [1] - 109:5 fire [1] - 102:14 fires [1] - 97:22 Firm [1] - 1:15 First [2] - 23:13, 23:21 first [21] - 5:7, 7:2, 14:22, 16:1, 26:23, 50:14, 52:17, 66:21, 67:24, 67:25, 72:11, 72:14, 77:13, 77:23, 81:5, 82:17, 106:17, 113:18, 114:12, 114:19 fit [1] - 21:8 five [7] - 17:22, 18:18, 64:18, 74:19, 86:17, 121:10, 124:17 fix [2] - 64:6, 95:4 FL [3] - 1:16, 1:20, 1:24 flexibility [11] - 8:10, 24:5, 26:8, 26:11, 26:17, 26:24, 27:1, 54:8, 59:1, 59:6, 90:21 flexible [4] - 8:1, 38:9, 45:24, 46:5</p> | <p>Floor [2] - 2:3, 128:16 FLORIDA [1] - 1:1 Florida [4] - 1:4, 2:4, 60:12, 128:16 flow [4] - 50:25, 51:4, 51:6, 51:8 FLSA [12] - 63:20, 79:24, 82:9, 113:6, 113:7, 113:13, 113:15, 113:23, 114:7, 116:23, 116:24, 119:13 focus [1] - 15:18 folks [1] - 107:16 follow [5] - 20:17, 20:23, 52:8, 109:11, 109:12 followed [1] - 125:4 following [5] - 4:1, 113:16, 120:7, 120:24, 122:11 follows [2] - 4:22, 5:22 FOR [4] - 1:14, 1:19, 3:3, 3:6 forced [1] - 89:4 foregoing [1] - 128:10 foreperson [4] - 123:14, 123:18, 125:6 forgot [1] - 112:1 form [13] - 19:20, 19:21, 20:12, 90:17, 98:14, 101:9, 103:11, 119:7, 123:16, 123:17, 123:19, 124:15, 127:4 format [1] - 53:13 formed [1] - 121:20 forms [5] - 85:23, 104:11, 125:2, 126:22, 126:24 formula [3] - 83:11, 88:13, 118:10 formulas [1] - 81:22 forth [3] - 21:18, 38:13, 58:21 forward [3] - 69:15, 69:16, 78:19 foundation [1] - 28:19 four [7] - 9:15, 23:13, 24:4, 26:4, 33:16, 90:6, 101:22 Four [2] - 121:7, 122:17 frame [1] - 105:23 frankly [1] - 91:6 free [3] - 27:21, 81:1, 109:7 frequency [1] - 114:24</p> |
|--|--|--|--|--|

July 13, 2023

8

Delio Batista, et al., v. Avant Assurance, Inc., 22-cv-22671-CMA

| | | | | |
|---|---|--|--|---|
| <p>frequently [1] - 37:8 Friday [1] - 101:23 friendly [1] - 33:4 fringe [2] - 88:11, 118:8 front [5] - 73:11, 73:22, 75:2, 90:24, 92:1 full [1] - 105:10 fully [1] - 123:3 functions [1] - 117:6</p> | <p>ground [1] - 98:17 group [1] - 33:5 Group [1] - 23:13 growth [1] - 85:16 guaranteed [1] - 114:23 Guerra [10] - 3:8, 6:4, 6:8, 42:11, 68:18, 71:18, 72:16, 96:23, 99:13, 102:12 GUERRA [1] - 5:21 guess [5] - 21:23, 35:15, 60:16, 65:8, 74:3 guide [1] - 21:5 guides [1] - 119:12 guy [2] - 93:12, 95:17 guys [10] - 19:14, 22:12, 22:17, 23:3, 33:7, 34:8, 35:21, 53:23, 78:8, 94:25</p> | <p>Healthcare [2] - 17:13, 23:12 hear [24] - 12:25, 33:18, 33:22, 35:25, 36:6, 36:12, 36:13, 36:22, 37:17, 40:1, 41:20, 62:2, 63:25, 68:5, 68:13, 68:24, 69:15, 75:12, 76:6, 76:7, 77:14, 82:5, 90:10, 96:21 heard [35] - 36:7, 36:15, 36:19, 39:14, 39:20, 66:3, 66:18, 68:4, 68:12, 71:17, 71:18, 71:22, 72:16, 72:25, 73:4, 74:1, 75:14, 75:20, 78:10, 79:10, 80:9, 83:18, 85:7, 88:2, 91:13, 96:23, 97:23, 99:13, 99:14, 101:13, 101:14, 102:10, 102:12, 125:13 hearing [3] - 36:3, 37:4, 66:21 hearsay [1] - 39:22 heart [1] - 94:5 heavily [1] - 49:18 heck [1] - 96:9 held [3] - 4:1, 86:4, 86:13 hello [3] - 13:17, 76:23, 77:3 help [12] - 6:25, 7:8, 8:4, 25:23, 41:25, 56:10, 56:24, 78:8, 89:12, 89:21, 124:8, 124:12 helpful [1] - 25:10 helping [1] - 25:15 hereby [1] - 128:10 herself [2] - 102:15, 102:16 hesitate [1] - 123:6 hi [1] - 13:18 higher [3] - 34:23, 38:10, 81:17 himself [1] - 36:18 HIPAA [1] - 23:4 hired [1] - 86:14 hiring [1] - 85:11 hit [5] - 15:24, 34:9, 34:23, 35:6, 74:19 hmm [12] - 14:1, 15:13, 16:5, 16:13, 18:23, 19:5, 28:8, 29:17, 30:4, 31:15, 39:6, 51:1 hold [1] - 51:21</p> | <p>holding [1] - 91:4 home [14] - 24:22, 55:21, 55:22, 57:8, 57:9, 57:12, 57:14, 57:19, 58:13, 58:16, 58:18, 58:20, 58:23, 76:15 honest [1] - 123:8 Honor [18] - 4:25, 5:6, 13:8, 62:5, 62:18, 63:4, 63:8, 64:7, 64:21, 65:24, 86:1, 94:17, 94:22, 104:5, 107:23, 107:24, 108:1, 128:2 honor [3] - 67:13, 98:11, 104:7 HONORABLE [1] - 1:12 hope [3] - 77:6, 77:7, 91:8 hospital [1] - 89:11 hour [11] - 10:2, 29:24, 64:15, 77:23, 79:23, 82:1, 89:20, 92:14, 107:16, 115:18, 115:25 hourly [7] - 37:11, 37:17, 79:15, 81:16, 88:6, 114:24 hours [39] - 9:12, 9:14, 24:2, 33:6, 48:11, 48:15, 73:2, 73:4, 73:6, 75:15, 77:24, 78:5, 78:8, 79:16, 82:1, 87:3, 89:2, 90:6, 92:4, 92:5, 92:10, 92:20, 93:17, 101:17, 114:5, 114:6, 114:9, 114:10, 114:13, 115:16, 115:19, 115:21, 115:23, 115:24, 116:7, 116:11, 117:24 house [2] - 92:18, 97:24 household [1] - 18:19 huge [6] - 9:19, 16:11, 26:24, 54:14, 54:16, 93:6 human [2] - 51:17, 80:16 husband [1] - 48:2 hybrid [1] - 76:14</p> | <p>28:21, 33:6, 54:5, 74:4, 80:1, 81:1, 81:13, 83:11, 83:12, 85:11, 86:21, 88:3, 88:5 IDENTIFIED [1] - 3:12 Illinois [2] - 60:15, 60:18 immediately [2] - 39:12, 104:23 important [18] - 38:9, 41:4, 41:5, 41:14, 67:10, 69:4, 70:5, 72:2, 82:3, 90:16, 90:22, 103:14, 110:24, 111:19, 112:5, 119:5, 119:12, 119:14 importantly [2] - 68:25, 81:5 impress [1] - 111:5 impression [1] - 124:14 improper [1] - 85:4 IN [1] - 3:12 inaccurately [1] - 112:2 inadequate [3] - 99:25, 101:15, 116:6 inbound [6] - 28:25, 60:2, 60:8, 60:10, 60:20, 61:8 Inc [10] - 117:15, 120:22, 120:25, 121:7, 122:5, 122:6, 122:13, 122:14, 122:15, 122:18 INC [1] - 1:8 Inc.'s [2] - 117:6, 121:6 included [1] - 114:20 includes [1] - 109:25 including [6] - 62:6, 96:3, 113:25, 117:6, 121:15, 124:7 income [7] - 21:13, 27:12, 38:22, 49:5, 49:6, 71:16, 72:17 incorrect [1] - 127:4 independent [82] - 8:7, 8:8, 11:23, 14:12, 23:14, 24:11, 25:11, 26:6, 27:21, 43:21, 45:23, 46:10, 51:23, 58:25, 59:2, 70:25, 71:1, 71:4, 71:24, 72:1, 74:2, 74:5, 74:6, 75:17, 76:4, 76:17, 79:18, 79:21, 82:12, 82:14,</p> |
| G | | | | |
| <p>G-U-E-R-R-A [1] - 6:4 Gables [2] - 1:16, 1:24 gambit [1] - 90:6 gaps [1] - 94:3 general [1] - 109:20 generally [4] - 117:25, 118:13, 118:15, 118:23 gentlemen [11] - 4:8, 61:22, 66:3, 76:23, 104:6, 104:8, 108:25, 124:8, 124:15, 125:9, 125:20 gig [1] - 49:17 given [9] - 12:15, 71:12, 71:13, 71:14, 76:5, 118:11, 122:20, 125:7 glad [1] - 95:8 gobbledygook [1] - 91:6 God [2] - 82:5, 92:7 gonna [9] - 6:15, 15:11, 23:1, 32:12, 32:21, 45:3, 79:16, 89:19 Gonzalez [14] - 43:20, 48:18, 57:9, 63:7, 69:16, 97:11, 99:9, 102:4, 113:4, 117:3, 117:4, 117:15, 127:6 GONZALEZ [1] - 1:9 goodness [1] - 94:5 governed [2] - 103:17, 119:17 government [3] - 84:12, 84:20, 85:22 governs [2] - 103:11, 119:7 grammatical [1] - 65:19 great [6] - 24:3, 51:12, 72:23, 74:6, 87:10, 101:7 greater [1] - 124:13</p> | <p>H</p> <p>hair [1] - 98:21 half [12] - 23:16, 31:14, 64:15, 80:18, 82:23, 92:20, 114:8, 114:13, 114:16, 114:18, 115:18, 115:24 hand [4] - 4:19, 5:19, 9:17, 77:10 handle [2] - 62:18, 67:14 hands [16] - 62:14, 63:12, 65:15, 65:17, 78:24, 104:16, 104:21, 104:24, 105:8, 105:17, 105:25, 106:5, 106:12, 106:19, 107:3, 107:5 hang [1] - 53:21 happy [1] - 62:16 hard [9] - 67:7, 67:11, 72:18, 75:16, 75:18, 75:21, 76:3, 76:5, 104:2 harder [2] - 26:2, 81:11 HDMI [1] - 95:11 head [1] - 89:24 headphones [1] - 89:23 headset [2] - 74:17, 76:17 health [6] - 7:9, 22:8, 22:11, 72:12, 72:18, 87:13</p> | | | |
| | | | I | |
| | | | <p>I-95 [1] - 50:20 idea [16] - 21:3, 28:17,</p> | |

July 13, 2023

9

Delio Batista, et al., v. Avant Assurance, Inc., 22-cv-22671-CMA

| | | | | |
|---|--|---|---|--|
| 82:19, 82:21, 83:21, 84:2, 84:6, 84:9, 84:11, 84:13, 84:20, 84:21, 84:24, 85:18, 86:5, 86:9, 86:13, 86:14, 86:15, 86:19, 86:25, 87:4, 88:12, 88:17, 88:18, 89:8, 89:10, 90:1, 90:10, 90:19, 90:21, 91:1, 91:3, 91:4, 96:8, 102:8, 102:25, 103:16, 106:13, 107:6, 107:9, 113:13, 116:9, 117:13, 117:16, 117:25, 118:3, 118:9, 118:13, 118:19, 118:22, 119:15, 119:17, 119:20 indicated [1] - 51:25 indication [1] - 122:22 individual [9] - 14:18, 18:11, 35:14, 35:23, 116:22, 116:24, 116:25, 119:20 industries [1] - 90:2 industry [2] - 89:14, 118:24 inequitable [3] - 105:6, 107:7, 107:10 inference [1] - 78:17 influenced [1] - 109:9 information [9] - 20:2, 23:6, 23:7, 23:8, 34:7, 55:4, 55:18, 93:23, 124:5 infringement [1] - 85:2 injured [1] - 105:3 innocent [1] - 112:3 input [1] - 31:7 inspired [1] - 72:13 instance [2] - 19:9, 29:15 instead [3] - 74:20, 87:11, 127:6 instruct [2] - 66:6, 104:12 instruction [12] - 62:13, 62:17, 63:2, 65:15, 65:16, 65:18, 104:16, 105:24, 106:17, 107:12, 124:18, 124:20 instructions [26] - 64:22, 64:23, 68:13, 71:7, 77:15, 82:5, 82:8, 88:14, 90:10, | 96:2, 98:12, 101:11, 107:17, 108:12, 108:22, 109:1, 109:3, 109:13, 109:14, 110:5, 122:20, 124:24, 125:2, 125:4, 125:7, 125:14 INSTRUCTIONS [1] - 108:24 Instructions..... [1] - 3:22 insurance [47] - 7:9, 11:12, 11:19, 22:6, 22:10, 22:11, 23:14, 24:12, 25:6, 25:15, 27:14, 40:19, 40:23, 42:2, 47:1, 47:7, 47:16, 49:10, 49:18, 56:16, 57:18, 60:7, 60:17, 72:2, 72:8, 72:13, 72:18, 72:22, 74:18, 75:5, 75:12, 79:9, 79:14, 79:15, 79:22, 79:23, 87:13, 87:20, 88:10, 92:13, 92:24, 96:4, 103:21, 118:8, 119:25, 122:7 insurances [1] - 79:6 intended [3] - 66:16, 115:13, 119:19 intense [1] - 11:6 intent [6] - 90:15, 90:16, 90:22, 119:4, 121:16 intention [1] - 90:23 intentional [2] - 112:4, 121:22 intentions [1] - 120:19 interest [4] - 22:16, 22:18, 111:9, 123:11 interesting [1] - 95:15 interference [3] - 106:6, 106:9, 106:21 Internet [3] - 57:23, 126:13, 126:16 interpretation [1] - 110:8 interpreted [1] - 122:22 interpreter [2] - 5:7, 5:11 interrogatories [1] - 98:12 interval [1] - 115:3 interview [5] - 7:3, 7:12, 7:14, 14:24, 15:6 interviewed [3] - 7:5, 14:22, 26:18 | introverted [2] - 36:4, 36:16 invented [1] - 80:13 invited [1] - 57:18 involve [1] - 16:20 involved [9] - 20:7, 58:17, 74:23, 74:24, 88:19, 109:15, 109:19, 112:17 involves [1] - 71:9 iPad [1] - 50:2 irrelevant [1] - 69:5 IRS [3] - 85:22, 106:14, 107:6 issue [11] - 40:8, 46:9, 46:12, 46:13, 46:14, 50:10, 65:5, 102:7, 110:4, 122:21 issued [2] - 70:25, 71:11 issues [4] - 9:19, 67:14, 71:9, 99:6 IT [1] - 126:20 it'd [1] - 12:16 item [1] - 47:20 items [1] - 46:25 | jury [43] - 4:6, 4:7, 11:10, 15:20, 28:9, 61:24, 61:25, 64:16, 65:22, 65:23, 66:1, 67:2, 67:10, 68:10, 68:14, 71:7, 73:22, 78:24, 79:13, 86:2, 86:23, 96:2, 101:10, 104:10, 104:14, 104:17, 105:23, 106:18, 107:20, 108:12, 108:20, 109:5, 123:13, 123:17, 124:6, 124:10, 124:23, 125:1, 125:9, 125:18, 125:19, 127:24, 128:5 justice [1] - 109:18 | known [2] - 113:6, 114:13 knows [2] - 114:4, 121:22 |
| L | | | | |
| label [4] - 83:23, 103:17, 119:17, 119:21 Labor [3] - 71:5, 113:5, 113:12 lack [2] - 30:20, 31:1 ladies [9] - 4:8, 61:22, 66:3, 76:23, 104:6, 104:8, 108:25, 124:8, 124:15 lapse [1] - 112:3 laptop [12] - 55:10, 55:11, 55:16, 87:25, 125:24, 126:3, 126:4, 126:5, 126:19, 127:10, 127:15 laptops [3] - 126:2, 126:10, 126:16 Last [1] - 6:3 last [13] - 39:3, 40:22, 47:17, 67:15, 67:25, 68:1, 77:21, 83:12, 83:18, 122:3, 122:5, 126:4, 126:7 late [1] - 67:13 latest [1] - 125:16 laundry [1] - 58:21 Law [1] - 1:19 law [20] - 60:4, 65:16, 66:6, 75:3, 81:14, 101:15, 101:17, 104:13, 109:1, 109:11, 109:12, 109:14, 109:17, 109:21, 110:5, 113:21, 116:6, 117:9, 117:10 lawsuit [6] - 67:16, 77:14, 80:22, 95:3, 102:18, 116:5 lawyer [2] - 69:19 lawyers [9] - 66:12, 67:3, 67:5, 69:17, 75:4, 89:8, 110:2, 124:2, 124:16 lead [1] - 12:17 leading [14] - 10:15, 26:14, 30:10, 30:23, 31:8, 32:24, 36:9, 39:17, 40:4, 41:7, 56:11, 57:1, 75:23, 75:24 | | | | |
| K | | | | |
| K-A-T-R-I-N-A [1] - 6:3 katrina [1] - 3:8 Katrina [6] - 5:7, 5:10, 6:1, 6:3, 13:19, 79:10 KATRINA [1] - 5:21 keep [19] - 41:23, 52:13, 52:24, 53:7, 54:2, 57:12, 64:16, 78:8, 82:13, 86:6, 95:24, 101:17, 111:24, 116:7, 116:10, 116:12, 116:15 keeping [2] - 23:4, 53:13 keeps [2] - 97:20, 97:21 key [2] - 86:16, 86:17 kids [5] - 24:4, 26:4, 26:12, 32:7, 85:8 kind [27] - 7:18, 12:2, 19:13, 21:4, 21:5, 21:14, 22:2, 26:2, 27:12, 28:23, 29:21, 30:22, 31:4, 34:4, 35:3, 36:17, 46:21, 50:13, 50:24, 51:12, 52:21, 53:14, 58:20, 67:2, 95:14, 95:16, 118:4 kinda [1] - 30:7 kindergarten [3] - 58:7, 58:8, 58:9 knock [1] - 125:13 knowing [1] - 74:25 knowledge [2] - 9:7, 110:15 | | | | |
| J | | | | |
| Jamaica [1] - 92:18 January [2] - 75:23, 92:16 Jeopardy [2] - 50:13, 74:19 job [26] - 11:24, 14:21, 14:25, 15:6, 15:7, 18:20, 25:10, 42:1, 75:3, 76:14, 76:15, 79:13, 79:15, 79:16, 81:4, 81:6, 85:15, 86:15, 88:5, 88:6, 90:20, 94:11, 97:5, 118:11, 118:20 jobs [3] - 75:10, 88:23 joint [1] - 127:23 JUDGE [1] - 1:12 Judge [8] - 12:19, 12:21, 24:16, 61:19, 62:9, 65:10, 82:6, 88:15 judge [1] - 126:11 Judge's [1] - 77:14 judges [2] - 123:10 July [1] - 1:5 jurors [7] - 64:11, 64:16, 108:16, 108:23, 123:4, 124:4, 125:1 Jurors [1] - 128:5 JURY [2] - 1:11, 77:9 | | | | |

July 13, 2023

10

Delio Batista, et al., v. Avant Assurance, Inc., 22-cv-22671-CMA

| | | | | |
|--|---|--|---|---|
| <p>leads [9] - 44:18, 60:2, 60:20, 61:3, 74:12, 85:4, 87:15, 89:17, 103:21</p> <p>leaning [2] - 99:1, 99:3</p> <p>learn [2] - 7:10, 22:21</p> <p>least [4] - 21:25, 24:5, 70:4, 114:8</p> <p>leave [5] - 29:24, 46:9, 46:11, 96:19, 125:6</p> <p>left [4] - 24:8, 26:25, 85:7, 99:1</p> <p>legal [4] - 51:13, 51:15, 66:18, 110:19</p> <p>Leon [1] - 1:23</p> <p>LESESMA [1] - 4:21</p> <p>Lesesma [1] - 3:7</p> <p>less [8] - 11:5, 18:12, 31:2, 35:22, 48:15, 60:16, 99:19, 103:25</p> <p>letter [6] - 91:14, 91:17, 91:24, 92:2, 106:2</p> <p>letters [2] - 80:19, 92:1</p> <p>Liability [1] - 116:22</p> <p>liable [2] - 116:23, 116:25</p> <p>licence [1] - 22:8</p> <p>license [9] - 22:7, 22:10, 49:10, 72:8, 72:10, 72:13, 75:5, 90:11</p> <p>licensed [6] - 14:14, 25:17, 26:6, 60:17, 79:12, 79:22</p> <p>licenses [2] - 90:3, 118:25</p> <p>lie [1] - 91:20</p> <p>life [11] - 11:18, 22:8, 22:9, 22:11, 23:14, 24:12, 27:14, 49:9, 49:11, 49:17, 79:9</p> <p>Life [1] - 23:14</p> <p>light [2] - 102:1, 117:17</p> <p>likely [1] - 112:13</p> <p>limited [1] - 66:14</p> <p>line [3] - 40:17, 41:13, 82:5</p> <p>lines [1] - 62:21</p> <p>link [1] - 20:14</p> <p>listed [3] - 53:1, 105:17, 119:12</p> <p>listen [5] - 6:25, 12:2, 32:11, 66:15, 90:5</p> <p>listened [1] - 72:14</p> <p>listening [1] - 78:8</p> <p>listing [1] - 119:1</p> | <p>listings [2] - 90:14, 119:3</p> <p>literally [1] - 80:23</p> <p>litigation [1] - 104:24</p> <p>live [2] - 43:7, 43:8</p> <p>lives [1] - 67:9</p> <p>living [1] - 49:8</p> <p>LLCs [1] - 85:21</p> <p>locate [1] - 127:10</p> <p>look [13] - 46:18, 64:1, 78:14, 86:20, 89:6, 103:17, 104:18, 119:21, 119:22, 124:20, 125:19, 125:22, 125:25</p> <p>looked [3] - 90:25, 104:19, 127:20</p> <p>looking [4] - 27:1, 90:6, 90:7, 95:15</p> <p>Lopez [2] - 113:2</p> <p>LOPEZ [2] - 1:4, 1:4</p> <p>Lorenzo [1] - 1:16</p> <p>lose [3] - 76:8, 89:2, 94:12</p> <p>losing [1] - 94:13</p> <p>loss [8] - 76:10, 85:13, 88:19, 88:21, 88:23, 103:3, 118:14, 118:16</p> <p>lost [2] - 52:21, 76:6</p> <p>love [2] - 75:25, 91:16</p> <p>lunch [4] - 64:13, 104:10, 104:11, 125:12</p> | <p>mandatory [2] - 10:9, 113:7</p> <p>manner [6] - 87:3, 87:6, 102:9, 117:23, 118:2, 119:11</p> <p>margin [1] - 99:5</p> <p>Mariana [12] - 30:3, 36:25, 48:15, 69:9, 72:5, 75:6, 75:20, 91:10, 99:7, 99:16, 100:22, 113:2</p> <p>MARIANA [1] - 1:4</p> <p>market [1] - 79:14</p> <p>marketplace [2] - 20:3, 55:5</p> <p>married [1] - 18:17</p> <p>match [2] - 68:21, 98:16</p> <p>matched [1] - 52:23</p> <p>material [1] - 106:13</p> <p>math [1] - 93:25</p> <p>matter [10] - 32:16, 70:14, 73:25, 88:25, 102:13, 102:14, 111:2, 115:1, 121:15, 128:12</p> <p>matters [3] - 26:17, 71:17, 110:9</p> <p>maximize [8] - 9:19, 11:3, 28:22, 30:1, 33:10, 48:23, 58:22, 59:22</p> <p>maximized [1] - 9:16</p> <p>McCARN [2] - 2:2, 128:15</p> <p>mean [68] - 9:24, 10:8, 11:2, 11:25, 19:25, 20:7, 21:10, 22:22, 27:5, 29:20, 31:23, 33:4, 34:2, 37:4, 43:6, 44:11, 44:22, 48:8, 49:2, 49:7, 49:14, 49:18, 49:22, 50:1, 50:9, 50:11, 51:5, 52:15, 53:11, 54:9, 58:24, 59:12, 60:6, 60:22, 64:17, 71:1, 71:18, 71:25, 75:10, 75:15, 75:16, 75:18, 76:3, 76:11, 76:14, 76:18, 77:19, 77:20, 77:21, 77:25, 79:12, 79:24, 86:10, 89:16, 91:21, 92:7, 92:19, 93:12, 95:1, 95:7, 95:11, 96:8, 97:11, 98:20, 101:13, 110:22, 111:24</p> <p>meaning [1] - 103:19</p> | <p>means [9] - 75:16, 76:5, 87:3, 87:6, 102:9, 112:11, 117:23, 118:1, 119:11</p> <p>measurement [1] - 14:4</p> <p>measurement-wise [1] - 14:4</p> <p>medical [2] - 21:12, 22:24</p> <p>meet [8] - 7:13, 7:16, 16:1, 24:21, 24:22, 42:14, 57:19, 104:9</p> <p>mem [1] - 15:25</p> <p>member [10] - 8:21, 15:12, 16:12, 16:16, 17:22, 18:9, 43:13, 47:3, 47:12, 103:4</p> <p>members [17] - 9:1, 12:10, 12:14, 15:14, 16:4, 17:3, 17:21, 17:23, 18:5, 18:6, 18:13, 21:24, 35:16, 47:2, 52:19, 54:5, 123:14</p> <p>memory [5] - 111:11, 112:3, 124:12, 124:13, 124:14</p> <p>mention [3] - 33:25, 36:19, 91:13</p> <p>mentions [1] - 83:16</p> <p>message [3] - 20:14, 123:22, 124:3</p> <p>met [8] - 14:21, 26:10, 27:3, 42:12, 69:7, 98:15, 99:4, 99:5</p> <p>method [1] - 114:24</p> <p>MIAMI [1] - 1:2</p> <p>Miami [7] - 1:4, 1:20, 2:3, 2:4, 79:13, 128:16, 128:16</p> <p>microphone [3] - 6:2, 24:14, 76:24</p> <p>middle [1] - 13:3</p> <p>might [6] - 38:25, 39:15, 63:18, 64:5, 89:19, 94:12</p> <p>million [1] - 81:21</p> <p>mind [5] - 58:24, 70:22, 92:12, 111:24, 123:6</p> <p>minds [1] - 68:9</p> <p>minimizing [1] - 74:23</p> <p>minimum [2] - 85:15, 94:4</p> <p>minute [3] - 62:11, 63:24, 103:13</p> <p>minutes [14] - 4:13, 43:5, 64:10, 64:15,</p> | <p>64:17, 64:18, 65:9, 73:1, 74:19, 76:21, 77:22, 103:2, 107:21, 108:10</p> <p>MISCELLANEOUS [1] - 3:18</p> <p>misclassified [1] - 84:22</p> <p>misquoted [1] - 73:20</p> <p>misstated [1] - 112:2</p> <p>misstatement [1] - 112:5</p> <p>mistake [1] - 111:24</p> <p>mistakes [2] - 65:19, 125:3</p> <p>mom's [1] - 92:18</p> <p>moment [6] - 34:18, 34:19, 35:10, 43:5, 43:6, 50:3</p> <p>moments [1] - 77:7</p> <p>Monday [1] - 78:10</p> <p>money [34] - 47:12, 49:14, 49:15, 70:13, 74:6, 74:11, 75:19, 76:1, 76:7, 76:8, 76:9, 79:17, 81:11, 81:17, 85:14, 86:12, 88:4, 89:1, 89:2, 91:22, 91:23, 91:25, 94:2, 94:4, 94:6, 95:21, 95:22, 95:24, 97:18, 97:25, 102:2, 102:3, 104:2</p> <p>monitor [2] - 89:22, 103:22</p> <p>monitors [2] - 56:2, 76:17</p> <p>month [13] - 39:3, 39:8, 47:12, 47:14, 47:15, 47:21, 52:18, 80:8, 83:12, 83:18, 92:16, 94:1, 94:10</p> <p>monthly [2] - 21:18, 115:3</p> <p>months [6] - 33:15, 52:21, 80:5, 80:21, 93:23</p> <p>morning [14] - 4:3, 4:8, 6:8, 6:9, 29:23, 42:11, 42:13, 42:14, 43:4, 58:10, 58:13, 61:23, 75:22, 125:15</p> <p>most [33] - 10:21, 16:6, 17:3, 20:19, 37:5, 41:21, 46:16, 47:8, 47:17, 47:20, 47:21, 48:7, 48:17, 49:2, 49:11, 49:12, 49:14, 50:19, 51:3, 51:7, 60:8, 60:10,</p> |
| | M | | | |
| | <p>ma'am [3] - 4:19, 5:16, 61:13</p> <p>Mac [1] - 126:12</p> <p>mad [1] - 92:8</p> <p>mail [11] - 39:10, 39:12, 40:8, 43:19, 43:24, 80:6, 80:20, 91:14, 91:15, 91:18, 127:7</p> <p>mailed [1] - 65:14</p> <p>mails [1] - 97:13</p> <p>main [2] - 49:5, 49:6</p> <p>maintain [4] - 105:25, 116:8, 116:11, 116:12</p> <p>major [1] - 68:8</p> <p>man [1] - 102:11</p> <p>manage [1] - 96:8</p> <p>management [1] - 51:17</p> <p>manager [4] - 6:21, 6:23, 6:24, 41:23</p> <p>managers [1] - 96:8</p> | | | |

July 13, 2023

11

Delio Batista, et al., v. Avant Assurance, Inc., 22-cv-22671-CMA

| | | | | |
|---|--|---|---|---|
| 60:11, 67:10, 72:1, 80:25, 81:5, 82:3, 90:22, 103:14, 119:11, 119:13 mostly [3] - 22:7, 22:8, 87:24 motions [4] - 62:2, 62:5, 62:8, 62:10 motivation [1] - 69:3 mouse [7] - 50:3, 50:4, 50:6, 50:11, 74:17, 74:20, 103:1 mouses [1] - 89:22 mouth [2] - 56:6, 73:11 move [6] - 13:12, 42:21, 85:16, 88:24, 108:7, 124:21 moved [2] - 43:10, 97:24 MR [138] - 4:4, 4:12, 4:15, 4:25, 5:4, 5:6, 5:10, 5:14, 6:7, 6:19, 10:15, 10:17, 12:17, 12:19, 12:21, 12:23, 13:2, 13:8, 13:12, 13:13, 13:14, 13:16, 15:21, 24:16, 24:18, 26:14, 26:16, 26:19, 26:21, 28:10, 28:19, 29:4, 29:9, 30:10, 30:15, 30:23, 30:25, 31:8, 31:10, 32:24, 33:1, 36:9, 36:11, 39:17, 39:19, 39:22, 39:25, 40:4, 40:7, 40:14, 40:16, 41:7, 41:9, 42:10, 52:7, 52:8, 52:11, 53:2, 53:5, 53:9, 53:15, 56:11, 56:13, 57:1, 57:4, 57:6, 61:11, 61:19, 61:21, 62:4, 62:9, 62:13, 62:20, 62:24, 63:4, 63:7, 63:14, 63:16, 63:18, 63:21, 64:3, 64:5, 64:13, 64:15, 64:19, 64:21, 65:2, 65:5, 65:8, 65:10, 65:24, 67:2, 76:23, 77:1, 77:3, 77:10, 85:25, 86:4, 94:17, 94:20, 94:22, 94:24, 95:13, 103:14, 104:5, 104:19, 105:12, 105:14, 105:16, 106:2, 106:6, 106:16, 106:21, 106:25, 107:2, | 107:7, 107:13, 107:18, 107:23, 107:24, 108:1, 108:6, 108:9, 125:10, 125:21, 125:23, 125:24, 126:4, 126:7, 126:11, 126:18, 127:5, 127:8, 127:12, 127:15, 127:19, 127:21, 128:2 muddled [1] - 105:24 multiple [1] - 18:8 multiply [1] - 115:23 must [37] - 87:4, 104:25, 105:2, 109:1, 109:8, 109:9, 109:11, 109:12, 109:13, 109:16, 109:17, 109:24, 110:21, 110:22, 112:2, 113:16, 114:5, 114:11, 114:19, 114:20, 115:19, 116:19, 117:1, 117:2, 117:5, 117:14, 117:19, 117:25, 120:6, 120:23, 121:13, 122:10, 122:24, 122:25, 123:2, 123:4, 123:18 N name [8] - 5:25, 6:1, 6:3, 6:4, 42:11, 98:4, 119:1, 127:4 names [2] - 90:14, 119:3 naturally [1] - 112:1 nature [3] - 7:1, 22:25, 35:20 necessarily [1] - 111:2 necessary [5] - 90:3, 90:11, 118:4, 118:20, 118:24 need [47] - 5:6, 5:7, 5:11, 11:17, 11:18, 20:13, 23:1, 24:5, 26:11, 38:11, 40:20, 45:6, 46:9, 46:21, 54:23, 55:3, 55:6, 55:8, 55:9, 55:12, 55:23, 55:24, 56:6, 56:8, 56:14, 56:20, 56:23, 62:16, 69:10, 69:12, 70:20, 76:24, 87:17, 87:18, 89:9, | 89:12, 98:16, 98:19, 98:20, 99:2, 99:3, 103:20, 125:2, 126:5, 127:23 needed [28] - 9:17, 9:18, 9:21, 15:24, 21:1, 21:16, 25:9, 27:2, 31:21, 43:18, 43:19, 43:23, 44:12, 45:6, 46:11, 46:17, 46:18, 46:20, 46:21, 46:22, 87:24, 87:25, 88:2, 96:3, 97:1, 97:3, 97:5 needing [1] - 87:13 needs [6] - 12:3, 41:17, 46:8, 89:7, 89:11 negotiate [2] - 96:16 negotiated [1] - 113:8 Netflix [2] - 53:20, 53:24 never [34] - 9:18, 10:9, 32:19, 36:7, 36:15, 38:12, 50:7, 50:10, 57:18, 58:18, 59:21, 59:23, 60:22, 60:24, 70:18, 77:25, 78:1, 78:12, 80:5, 80:21, 80:23, 80:24, 82:2, 83:15, 83:16, 84:12, 91:13, 91:18, 91:20, 92:2, 94:3, 97:12, 123:1 nevertheless [1] - 119:10 New [1] - 75:24 new [5] - 11:12, 11:14, 74:6, 97:24, 126:12 next [8] - 4:14, 44:3, 61:17, 76:13, 100:1, 100:5, 100:10, 124:21 nice [1] - 42:14 night [3] - 60:3, 60:7, 60:21 nine [2] - 33:15 NO [1] - 1:2 nobody [2] - 97:14, 97:16 non [1] - 114:20 non-discretionary [1] - 114:20 none [2] - 82:21, 82:22 normally [3] - 47:4, 118:3, 126:15 North [2] - 2:3, 128:16 note [1] - 124:7 notebooks [1] - 66:8 | notes [9] - 66:9, 66:11, 66:14, 99:21, 124:8, 124:9, 124:11, 124:12 nothing [10] - 29:20, 61:11, 64:25, 71:6, 94:10, 97:18, 103:25, 126:3 notice [2] - 54:10, 54:12 November [5] - 33:14, 39:3, 39:4, 75:23, 92:17 November/ December [1] - 39:3 nowadays [1] - 56:15 number [7] - 21:1, 34:23, 35:16, 52:19, 111:1, 115:12, 117:18 numbers [16] - 15:24, 17:8, 34:3, 39:9, 79:24, 80:2, 80:13, 80:23, 81:15, 83:8, 83:10, 91:8, 99:21, 100:21, 101:2, 127:24 numbing [1] - 92:12 O o'clock [12] - 29:18, 30:6, 58:9, 58:10, 60:3, 60:7, 60:12, 60:13, 60:15, 60:21, 60:22 Obamacare [1] - 8:4 object [2] - 4:25, 13:2 objection [11] - 10:15, 12:25, 13:9, 13:10, 26:14, 26:19, 28:19, 30:10, 39:22, 62:25, 85:25 objections [4] - 12:3, 46:22, 62:6, 62:15 obligated [1] - 59:25 obligation [2] - 78:19, 82:12 observe [1] - 111:13 obtain [1] - 15:24 occasion [1] - 43:24 occurred [1] - 121:6 October [6] - 6:15, 6:18, 13:22, 33:14 OF [4] - 1:1, 67:1, 77:2, 94:23 offensive [1] - 80:25 offer [4] - 90:1, 103:8, 118:22, 118:23 offered [3] - 47:9, | 87:20, 103:10 offering [1] - 27:6 Office [1] - 126:1 office [22] - 31:13, 33:16, 36:5, 37:20, 38:14, 39:11, 43:8, 43:20, 49:22, 55:21, 57:14, 58:17, 61:7, 74:10, 74:12, 75:6, 76:13, 96:4, 97:24, 98:2, 103:1, 113:25 officer [3] - 108:22, 123:23 OFFICER [4] - 61:24, 65:11, 65:13, 125:17 Offices [1] - 1:19 Official [1] - 128:15 official [1] - 2:2 often [2] - 67:3, 67:4 old [3] - 57:15, 58:3, 95:3 ON [3] - 67:1, 77:2, 94:23 once [16] - 12:14, 12:15, 16:3, 16:6, 29:21, 29:24, 34:2, 35:23, 40:18, 40:23, 41:4, 43:9, 43:25, 55:16, 115:22 one [91] - 10:3, 12:24, 16:21, 17:11, 17:13, 17:22, 18:2, 18:4, 18:9, 18:12, 18:16, 18:18, 21:16, 28:6, 30:14, 31:23, 32:7, 34:4, 34:9, 34:13, 36:2, 36:4, 39:2, 39:8, 40:1, 40:25, 41:22, 49:16, 50:14, 61:9, 62:22, 64:6, 64:24, 70:16, 71:8, 71:9, 72:23, 73:7, 73:12, 79:21, 80:11, 81:3, 83:5, 83:7, 84:23, 86:7, 88:7, 90:13, 93:18, 95:9, 96:11, 98:2, 98:3, 98:19, 100:6, 103:13, 107:4, 111:5, 112:17, 114:8, 114:10, 114:18, 115:9, 115:18, 115:24, 117:2, 118:13, 119:2, 119:21, 120:8, 120:25, 122:12, 123:4, 123:13, 124:4, 124:21, 124:24, 124:25, 125:3, |
|---|--|---|---|---|

July 13, 2023

12

Delio Batista, et al., v. Avant Assurance, Inc., 22-cv-22671-CMA

| | | | | |
|---|--|---|--|--|
| <p>125:5, 125:6, 126:5, 126:8, 126:21, 127:13, 127:16, 127:21</p> <p>one-and-one-half [1] - 114:8</p> <p>one-half [3] - 114:18, 115:18, 115:24</p> <p>ones [2] - 36:2, 65:2</p> <p>online [2] - 75:5, 75:6</p> <p>open [36] - 8:3, 9:14, 11:4, 11:8, 11:9, 11:10, 11:11, 11:20, 13:23, 16:3, 16:15, 16:19, 16:25, 19:1, 20:15, 27:5, 28:1, 31:13, 31:19, 35:12, 35:24, 41:13, 47:2, 48:5, 48:11, 48:16, 48:20, 59:15, 60:21, 60:23, 71:23, 92:5, 93:16, 94:9, 99:18, 100:8</p> <p>opened [1] - 71:22</p> <p>opening [5] - 66:12, 67:8, 70:4, 70:5, 70:17</p> <p>operational [2] - 71:25, 117:3</p> <p>opinion [2] - 110:4, 123:6</p> <p>opportunity [20] - 9:20, 10:21, 31:4, 49:9, 66:23, 67:5, 67:6, 67:19, 67:20, 76:5, 85:13, 85:15, 85:16, 85:17, 87:10, 88:24, 89:1, 111:12, 118:12, 118:13</p> <p>oral [3] - 120:4</p> <p>order [4] - 15:24, 20:3, 35:4, 68:6</p> <p>ordered [1] - 84:25</p> <p>ordering [1] - 104:11</p> <p>orders [1] - 104:10</p> <p>ordinarily [4] - 88:12, 90:13, 118:9, 119:1</p> <p>Oscar [7] - 34:11, 36:1, 42:3, 47:8, 47:11, 83:14</p> <p>otherwise [5] - 59:15, 89:18, 89:19, 102:3, 113:10</p> <p>ourselves [2] - 53:21, 89:10</p> <p>outcome [2] - 111:10, 119:10</p> <p>outline [1] - 15:23</p> <p>outside [3] - 4:5, 53:2, 53:9</p> | <p>overcome [2] - 12:3, 46:22</p> <p>overhead [1] - 56:17</p> <p>overruled [6] - 28:20, 39:23, 40:5, 53:3, 53:10, 86:3</p> <p>overstepping [1] - 30:22</p> <p>overtime [36] - 37:13, 37:18, 48:9, 70:18, 71:6, 78:12, 80:6, 82:15, 95:6, 95:19, 95:22, 99:11, 99:14, 99:15, 99:22, 100:14, 100:23, 101:25, 103:23, 103:24, 113:5, 113:21, 113:22, 114:5, 114:11, 114:14, 114:17, 115:8, 115:10, 115:17, 115:18, 115:19, 115:23, 115:24, 115:25</p> <p>overview [1] - 18:20</p> <p>overwhelming [2] - 70:23, 98:15</p> <p>owed [35] - 36:13, 52:14, 52:20, 53:8, 54:2, 54:6, 80:6, 80:7, 80:10, 80:17, 80:18, 91:7, 91:11, 91:17, 91:25, 95:18, 95:19, 99:11, 99:22, 100:3, 100:14, 100:20, 101:5, 101:7, 102:2, 103:23, 103:25, 114:17, 122:9</p> <p>owes [1] - 122:6</p> <p>own [24] - 24:2, 37:7, 50:6, 53:14, 84:14, 84:16, 85:20, 87:25, 89:7, 89:15, 89:18, 89:20, 89:22, 105:5, 105:8, 109:2, 110:7, 110:8, 123:6, 124:12, 126:2</p> <p>owner [5] - 7:15, 9:9, 9:10, 12:15, 14:19</p> <p>Oz [1] - 98:1</p> | <p>page [1] - 43:12</p> <p>Page [3] - 3:3, 3:6, 3:19</p> <p>Pages [1] - 1:8</p> <p>pages [2] - 124:16, 124:17</p> <p>paid [51] - 8:12, 8:18, 12:13, 12:16, 15:11, 33:19, 36:8, 37:11, 38:25, 40:18, 40:23, 43:16, 43:21, 52:1, 52:4, 71:9, 71:23, 78:11, 80:11, 80:15, 81:9, 81:17, 83:1, 83:3, 83:4, 83:7, 86:12, 88:8, 88:9, 88:12, 88:21, 93:3, 93:22, 94:3, 95:2, 96:15, 98:4, 100:8, 100:9, 100:11, 102:17, 102:19, 114:23, 116:2, 116:3, 116:8, 116:17, 118:5, 118:9, 118:16</p> <p>painful [1] - 77:20</p> <p>pale [1] - 91:8</p> <p>paper [2] - 56:23, 98:19</p> <p>papers [1] - 20:18</p> <p>paragraph [1] - 62:25</p> <p>part [28] - 11:2, 17:3, 25:5, 37:15, 40:17, 41:21, 42:1, 46:16, 48:7, 48:9, 49:2, 50:19, 51:3, 51:7, 52:4, 67:10, 72:2, 80:25, 82:2, 82:3, 82:10, 86:16, 93:6, 111:1, 112:8, 112:14, 112:24</p> <p>participating [1] - 42:2</p> <p>particular [14] - 11:24, 12:11, 18:10, 21:24, 33:24, 51:22, 52:24, 53:11, 90:2, 111:2, 111:7, 115:5, 118:24</p> <p>parties [17] - 86:21, 90:17, 117:18, 119:5, 119:18, 119:19, 120:9, 120:10, 120:12, 120:13, 120:18, 121:16, 121:18, 121:22, 122:1, 124:2, 126:2</p> <p>parties' [3] - 119:4, 120:18</p> <p>partly [2] - 120:4</p> | <p>party [7] - 104:22, 104:23, 109:15, 120:16, 121:12, 121:13, 121:23</p> <p>party's [1] - 90:15</p> <p>pass [1] - 108:22</p> <p>passed [1] - 75:7</p> <p>past [2] - 59:21, 119:21</p> <p>patience [2] - 12:2, 46:21</p> <p>patient [1] - 124:3</p> <p>Patricia [5] - 65:1, 108:16, 126:10, 126:22, 127:9</p> <p>pause [1] - 76:20</p> <p>Pause [13] - 4:11, 4:18, 5:17, 24:17, 29:6, 40:11, 61:18, 62:23, 63:23, 108:19, 126:9, 127:22, 128:1</p> <p>pay [36] - 21:13, 34:24, 47:4, 47:15, 72:17, 72:22, 74:7, 74:8, 76:2, 84:16, 86:6, 95:20, 95:22, 95:23, 97:6, 97:21, 100:1, 100:24, 113:4, 113:5, 113:20, 113:21, 114:7, 114:11, 114:13, 114:16, 115:10, 116:11, 116:16, 116:21, 119:24, 120:1, 121:9, 122:18</p> <p>paying [3] - 8:21, 114:25, 121:8</p> <p>payment [4] - 16:12, 40:21, 41:2, 122:8</p> <p>payments [3] - 21:18, 39:21, 93:21</p> <p>pays [2] - 102:19, 118:5</p> <p>pen [3] - 56:20, 56:24</p> <p>pencils [1] - 66:9</p> <p>people [41] - 8:4, 18:18, 19:2, 19:15, 25:13, 25:15, 25:24, 34:13, 35:12, 39:5, 41:5, 41:11, 41:18, 44:11, 52:13, 74:25, 79:21, 80:17, 81:2, 81:5, 83:14, 83:15, 83:19, 87:9, 87:12, 87:13, 87:14, 87:15, 87:16, 87:18, 88:23, 89:24, 91:25, 92:23, 93:8, 93:14, 94:6,</p> | <p>109:19, 112:1, 117:11</p> <p>per [18] - 8:21, 15:11, 16:12, 16:15, 17:4, 17:12, 17:13, 43:13, 46:7, 47:12, 92:13, 96:17, 115:23, 115:24</p> <p>perfect [1] - 65:10</p> <p>perform [6] - 28:4, 87:7, 117:12, 118:4, 121:12, 121:13</p> <p>performance [4] - 6:25, 12:9, 119:11, 121:6</p> <p>performed [4] - 49:21, 113:25, 114:3, 116:17</p> <p>performing [3] - 90:3, 90:11, 118:25</p> <p>perhaps [3] - 23:16, 56:21, 60:23</p> <p>period [19] - 8:3, 10:24, 11:8, 11:16, 11:17, 19:1, 19:2, 29:12, 31:3, 43:21, 47:2, 59:16, 92:5, 92:11, 93:17, 94:9, 94:10, 115:7, 115:12</p> <p>periods [1] - 11:6</p> <p>permanency [2] - 94:10, 94:11</p> <p>permission [3] - 20:2, 20:8, 96:13</p> <p>permitting [1] - 113:22</p> <p>person [13] - 18:14, 18:16, 34:20, 35:9, 36:17, 56:25, 67:24, 67:25, 73:5, 96:11, 110:14, 120:15</p> <p>personal [7] - 9:18, 9:21, 24:8, 28:22, 43:18, 46:7, 111:9</p> <p>personalities [1] - 35:12</p> <p>personally [4] - 19:15, 32:10, 49:7, 105:3</p> <p>persons [1] - 109:17</p> <p>perspective [2] - 46:25, 66:17</p> <p>persuade [1] - 112:12</p> <p>persuasion [1] - 112:10</p> <p>phenomenal [1] - 67:6</p> <p>phone [12] - 19:14, 19:17, 41:25, 43:25, 50:4, 53:17, 55:6, 55:7, 57:23, 72:19, 74:17, 127:23</p> |
| | <p>P</p> | | | |
| | <p>p.m [15] - 1:6, 30:3, 61:3, 61:8, 75:16, 104:14, 108:14, 108:20, 125:13, 125:16, 125:18, 128:4, 128:6</p> | | | |

July 13, 2023

13

Delio Batista, et al., v. Avant Assurance, Inc., 22-cv-22671-CMA

| | | | | |
|---|--|--|---|---|
| <p>phonebook [1] - 119:21</p> <p>phones [4] - 19:16, 50:6, 89:24, 95:16</p> <p>pick [2] - 11:7, 74:21</p> <p>Pick [1] - 72:23</p> <p>piecework [2] - 88:9, 118:6</p> <p>pin [3] - 68:21, 68:22, 98:16</p> <p>piss [2] - 97:21, 102:14</p> <p>place [10] - 19:13, 24:19, 25:8, 25:12, 45:13, 47:18, 54:21, 57:16, 57:20, 80:21</p> <p>placed [1] - 45:13</p> <p>places [1] - 25:12</p> <p>PLAINTIFF [1] - 94:23</p> <p>Plaintiff [3] - 78:4, 113:24, 115:14</p> <p>Plaintiff's [5] - 66:21, 66:22, 104:25, 105:3, 116:23</p> <p>Plaintiffs [51] - 1:6, 13:19, 14:3, 14:8, 14:17, 33:16, 33:19, 33:23, 39:15, 40:1, 62:5, 66:4, 66:19, 80:5, 87:21, 101:20, 103:15, 105:8, 106:12, 112:7, 112:16, 113:5, 113:16, 113:18, 113:20, 114:17, 116:2, 116:13, 116:16, 116:17, 116:19, 117:8, 117:14, 117:16, 118:5, 118:12, 118:18, 118:22, 119:14, 120:6, 120:20, 120:23, 120:25, 121:2, 121:10, 122:4, 122:6, 122:10, 122:12, 122:23</p> <p>plaintiffs [7] - 113:2, 114:14, 116:3, 116:10, 116:11, 117:2, 119:23</p> <p>PLAINTIFFS [3] - 1:14, 3:3, 67:1</p> <p>plaintiffs' [1] - 122:3</p> <p>Plaintiffs' [9] - 3:13, 87:1, 105:4, 105:5, 107:5, 112:12, 112:25, 117:21, 122:21</p> <p>Plaintiffs.... [1] - 3:21</p> <p>Plaintiffs..... [1] - 3:20</p> | <p>plan [8] - 9:7, 9:8, 11:12, 16:20, 20:4, 20:9, 21:21, 23:1</p> <p>planned [1] - 64:7</p> <p>play [1] - 32:7</p> <p>plays [1] - 116:24</p> <p>pleading [1] - 106:23</p> <p>pleasure [1] - 104:6</p> <p>pled [2] - 65:18, 106:3</p> <p>plug [1] - 127:17</p> <p>plumber [1] - 89:7</p> <p>plus [1] - 17:20</p> <p>pocket [1] - 47:4</p> <p>point [15] - 16:21, 27:7, 33:18, 55:15, 64:1, 77:13, 78:22, 79:19, 80:11, 83:5, 86:8, 88:7, 93:1, 93:5, 111:2</p> <p>points [1] - 91:10</p> <p>policies [23] - 17:1, 17:5, 17:7, 17:14, 17:20, 17:21, 17:25, 18:2, 19:8, 19:10, 19:12, 21:23, 25:13, 27:9, 47:1, 47:7, 47:8, 47:9, 53:1, 79:22, 81:9, 119:25, 122:7</p> <p>policy [27] - 17:12, 17:19, 17:22, 18:7, 18:8, 18:10, 18:11, 18:12, 18:16, 18:18, 18:21, 20:11, 20:12, 21:5, 21:9, 41:4, 41:10, 47:4, 47:17, 54:22, 55:2, 81:9, 89:13, 92:13, 98:5, 100:8</p> <p>Pollock [12] - 3:9, 3:10, 42:11, 62:22, 66:24, 73:17, 73:19, 73:20, 78:13, 87:17, 94:14, 104:18</p> <p>POLLOCK [65] - 1:14, 4:25, 5:4, 10:15, 12:21, 12:23, 13:2, 13:8, 13:12, 13:14, 26:14, 26:19, 28:19, 30:10, 30:23, 31:8, 32:24, 36:9, 39:17, 39:22, 40:4, 41:7, 42:10, 52:7, 53:2, 53:9, 56:11, 57:1, 57:6, 61:11, 62:4, 62:13, 62:24, 64:21, 65:2, 65:5, 65:8, 65:10, 65:24, 67:2, 85:25, 94:17, 94:20, 94:22, 94:24, 95:13,</p> | <p>103:14, 104:5, 104:19, 107:23, 108:1, 108:6, 108:9, 125:10, 125:21, 125:24, 126:4, 126:7, 126:11, 126:18, 127:5, 127:12, 127:15, 127:19, 128:2</p> <p>Pollock's [1] - 89:5</p> <p>Ponce [1] - 1:23</p> <p>portals [1] - 56:18</p> <p>position [13] - 6:20, 7:2, 7:3, 7:12, 7:24, 8:1, 8:14, 8:15, 11:3, 11:22, 24:8, 26:25, 59:13</p> <p>possible [2] - 115:4, 123:24</p> <p>possibly [4] - 53:7, 69:8, 98:12, 126:11</p> <p>potential [6] - 10:22, 11:3, 12:12, 29:3, 29:22, 33:9</p> <p>potentially [2] - 30:8, 31:2</p> <p>practicable [1] - 115:4</p> <p>predetermined [3] - 88:20, 103:4, 118:15</p> <p>predicate [1] - 28:19</p> <p>preferred [1] - 58:18</p> <p>prejudice [1] - 109:10</p> <p>premium [1] - 21:13</p> <p>premiums [2] - 34:24, 95:21</p> <p>preparation [1] - 67:7</p> <p>prepared [2] - 69:16, 123:16</p> <p>preponderance [7] - 112:9, 112:11, 112:15, 112:20, 112:25, 113:17, 116:20</p> <p>preprinted [1] - 96:18</p> <p>present [1] - 66:5</p> <p>presented [5] - 77:22, 86:3, 107:4, 109:9</p> <p>press [1] - 20:15</p> <p>presume [1] - 115:5</p> <p>pretty [6] - 14:8, 53:12, 56:16, 58:24, 94:24</p> <p>prevail [1] - 122:23</p> <p>previous [2] - 8:14, 62:5</p> <p>previously [1] - 8:13</p> <p>price [1] - 96:16</p> <p>print [1] - 108:12</p> <p>private [2] - 35:13, 36:16</p> | <p>problem [5] - 20:20, 42:8, 72:22, 88:3, 95:5</p> <p>proceed [6] - 4:3, 5:5, 5:13, 13:1, 13:11, 54:19</p> <p>Proceeding..... [1] - 3:20</p> <p>proceedings [16] - 4:1, 4:11, 4:18, 5:17, 24:17, 29:6, 40:11, 61:18, 62:23, 63:23, 108:19, 126:9, 127:22, 128:1, 128:6, 128:11</p> <p>process [5] - 57:23, 67:10, 72:12, 73:13, 82:23</p> <p>processed [1] - 55:19</p> <p>procure [1] - 126:8</p> <p>procured [3] - 90:2, 90:11, 118:24</p> <p>produce [6] - 10:13, 15:16, 33:5, 33:9, 44:19, 59:22</p> <p>produced [2] - 48:25, 112:23</p> <p>producing [5] - 40:20, 41:1, 42:5, 57:12, 58:22</p> <p>production [4] - 28:23, 33:10, 48:24, 58:22</p> <p>professional [2] - 32:22, 36:17</p> <p>professionally [1] - 24:7</p> <p>professionals [5] - 75:4, 79:11, 79:12, 79:22, 89:12</p> <p>profit [5] - 76:6, 85:13, 88:19, 88:22, 118:14</p> <p>program [3] - 8:5, 83:15, 85:12</p> <p>prolong [1] - 67:21</p> <p>promised [2] - 8:16, 8:17</p> <p>promptly [1] - 123:24</p> <p>proof [9] - 68:10, 77:15, 80:14, 83:19, 110:17, 112:10, 112:14, 112:24</p> <p>propose [1] - 64:1</p> <p>proposed [7] - 62:13, 63:1, 63:19, 64:25, 65:14, 106:17, 107:12</p> <p>protection [1] - 20:4</p> <p>protects [3] - 20:6,</p> | <p>20:7</p> <p>prove [19] - 68:6, 68:20, 68:22, 77:16, 78:20, 83:3, 90:9, 110:18, 112:8, 113:16, 116:13, 116:19, 117:2, 120:6, 120:7, 120:20, 120:23, 122:10</p> <p>proved [2] - 95:18, 112:19</p> <p>proven [2] - 78:20, 99:12</p> <p>provide [6] - 7:8, 24:24, 28:5, 98:11, 126:2, 126:3</p> <p>provided [7] - 74:18, 87:13, 89:21, 99:20, 103:6, 118:11, 118:18</p> <p>provides [4] - 88:10, 118:7, 118:19, 126:1</p> <p>public [2] - 90:2, 118:23</p> <p>published [3] - 15:20, 28:9, 63:10</p> <p>punctual [1] - 4:9</p> <p>purpose [4] - 13:4, 78:6, 78:15, 121:15</p> <p>purposes [1] - 71:15</p> <p>put [27] - 5:8, 7:11, 23:1, 49:15, 52:18, 52:20, 54:5, 55:19, 63:2, 66:8, 66:9, 67:11, 67:24, 70:6, 71:19, 74:16, 76:10, 78:23, 85:21, 98:19, 105:16, 106:7, 108:2, 114:9, 119:17, 119:21, 125:10</p> <p>putting [2] - 73:10, 83:9</p> |
| Q | | | | |
| <p>qualified [1] - 47:13</p> <p>qualify [2] - 72:18, 72:23</p> <p>questioning [2] - 12:18, 79:6</p> <p>questions [18] - 19:17, 21:4, 22:3, 22:22, 42:22, 52:7, 55:17, 55:18, 56:4, 56:8, 73:1, 78:2, 78:14, 80:9, 93:20, 100:13, 111:4, 111:14</p> <p>quick [6] - 19:11,</p> | | | | |

July 13, 2023

14

Delio Batista, et al., v. Avant Assurance, Inc., 22-cv-22671-CMA

| | | | | |
|--|--|--|---|---|
| <p>20:19, 42:21, 52:8, 52:12, 69:8</p> <p>quicker [2] - 50:4</p> <p>quiet [1] - 36:2</p> <p>Quintero [10] - 43:20, 48:18, 57:9, 69:16, 97:11, 113:4, 117:3, 117:5, 117:15, 127:6</p> <p>QUINTERO [1] - 1:9</p> <p>quirky [1] - 77:5</p> <p>quote [2] - 55:3, 70:12</p> <p>quote/unquote [2] - 35:14, 38:11</p> <p>quotes [1] - 70:6</p> | <p>realities [3] - 71:18, 86:20, 117:17</p> <p>reality [4] - 83:24, 88:15, 103:18, 119:22</p> <p>really [17] - 9:16, 20:23, 21:14, 29:12, 29:20, 36:15, 38:21, 48:4, 69:4, 71:17, 75:21, 76:3, 82:23, 82:25, 86:23, 101:1, 102:15</p> <p>reason [13] - 11:15, 11:18, 58:24, 59:2, 73:20, 73:21, 73:22, 73:24, 97:16, 111:7, 113:24, 114:3, 114:4</p> <p>reasonable [8] - 68:23, 101:21, 102:5, 116:18, 116:20, 120:15, 121:13, 121:14</p> <p>reasoning [1] - 110:10</p> <p>rebuttal [4] - 62:2, 62:4, 66:23, 94:21</p> <p>REBUTTAL [1] - 94:23</p> <p>Rebuttal [1] - 3:21</p> <p>rec [1] - 91:6</p> <p>receive [2] - 17:14, 40:18</p> <p>received [2] - 12:16, 112:22</p> <p>recess [7] - 61:23, 62:12, 63:25, 65:12, 108:14, 128:2, 128:4</p> <p>recollection [2] - 86:2, 110:8</p> <p>record [1] - 82:13</p> <p>recordkeeping [1] - 82:10</p> <p>Records [1] - 116:6</p> <p>records [11] - 82:13, 84:18, 99:25, 101:15, 101:17, 116:7, 116:9, 116:11, 116:13, 116:16</p> <p>recover [7] - 101:2, 101:21, 115:17, 116:3, 116:18, 116:19, 120:22</p> <p>recovery [1] - 106:19</p> <p>recross [1] - 53:10</p> <p>Recross [1] - 3:10</p> <p>RECROSS [1] - 57:5</p> <p>red [1] - 62:21</p> <p>REDIRECT [1] - 52:10</p> <p>Redirect [1] - 3:10</p> <p>refer [1] - 70:3</p> <p>reference [2] - 64:23,</p> | <p>127:6</p> <p>referrals [1] - 27:13</p> <p>regard [1] - 46:6</p> <p>regarding [3] - 28:1, 36:8, 82:15</p> <p>regardless [4] - 112:21, 112:22, 114:21, 114:24</p> <p>regular [11] - 114:8, 114:12, 114:18, 114:19, 114:21, 115:9, 115:10, 115:15, 115:18, 115:22, 115:24</p> <p>regularity [1] - 114:25</p> <p>rehash [2] - 78:4, 78:7</p> <p>REINIER [1] - 1:8</p> <p>Reinier [36] - 7:15, 14:21, 16:1, 26:10, 26:17, 26:22, 27:3, 27:4, 27:8, 27:15, 32:17, 35:8, 38:24, 39:11, 39:16, 40:3, 55:12, 55:14, 64:8, 77:17, 77:20, 77:24, 77:25, 78:9, 79:20, 83:2, 85:12, 86:10, 89:17, 90:5, 93:20, 97:10, 99:8, 113:4, 117:3, 117:15</p> <p>reiterate [2] - 62:16, 90:18</p> <p>relate [1] - 106:15</p> <p>related [4] - 104:23, 105:1, 105:2, 105:6</p> <p>relation [1] - 103:18</p> <p>relationship [13] - 7:23, 86:20, 103:18, 103:19, 117:18, 117:22, 119:6, 119:9, 119:18, 119:19, 119:21, 119:22, 122:1</p> <p>relationships [1] - 94:7</p> <p>release [1] - 125:14</p> <p>released [1] - 128:5</p> <p>relevant [4] - 114:1, 114:4, 117:1, 119:18</p> <p>relief [1] - 104:22</p> <p>rely [2] - 86:2, 124:11</p> <p>remain [2] - 41:5, 124:6</p> <p>remaining [1] - 117:12</p> <p>remains [1] - 66:4</p> <p>remember [12] - 16:11, 17:8, 37:2, 37:3, 37:4, 73:8, 91:10, 100:19, 101:6, 112:1,</p> | <p>123:10, 124:9</p> <p>remembers [1] - 111:25</p> <p>remote [2] - 76:15, 76:19</p> <p>render [1] - 66:7</p> <p>renew [1] - 62:5</p> <p>reopen [1] - 108:1</p> <p>repeat [1] - 77:11</p> <p>repercussions [1] - 10:6</p> <p>rephrase [1] - 15:5</p> <p>replete [1] - 65:19</p> <p>report [2] - 38:21, 71:16</p> <p>REPORTED [1] - 2:2</p> <p>reported [1] - 107:9</p> <p>REPORTER [4] - 6:16, 40:12, 40:15, 95:12</p> <p>Reporter [2] - 2:2, 128:15</p> <p>Reporter's [1] - 3:22</p> <p>requested [2] - 80:24, 126:23</p> <p>require [3] - 11:24, 19:24, 42:3</p> <p>required [10] - 9:24, 19:22, 113:5, 113:21, 116:8, 120:9, 121:3, 121:5, 121:9, 122:18</p> <p>requirement [3] - 33:7, 121:12, 121:13</p> <p>requirements [8] - 23:4, 28:2, 42:4, 42:6, 66:18, 113:7, 113:9, 113:13</p> <p>requires [5] - 101:16, 101:17, 114:7, 116:6, 119:21</p> <p>residuals [1] - 27:13</p> <p>resonates [1] - 103:12</p> <p>resource [1] - 51:17</p> <p>resources [1] - 8:2</p> <p>respect [2] - 38:7, 104:24</p> <p>respond [3] - 27:4, 123:24, 124:2</p> <p>responds [1] - 67:25</p> <p>response [2] - 106:8, 124:3</p> <p>responsibilities [5] - 6:22, 7:7, 22:19, 22:20, 41:10</p> <p>responsibility [4] - 86:7, 86:11, 112:7, 117:7</p> <p>responsible [1] - 109:20</p> <p>rest [2] - 10:4, 61:21</p> | <p>rested [1] - 66:4</p> <p>resting [1] - 64:8</p> <p>restrictions [1] - 53:16</p> <p>restroom [1] - 63:8</p> <p>rests [1] - 61:19</p> <p>result [1] - 105:9</p> <p>resulted [1] - 120:3</p> <p>retained [1] - 122:15</p> <p>retention [1] - 41:14</p> <p>retirement [2] - 88:10, 118:8</p> <p>return [4] - 15:4, 66:23, 123:19, 125:14</p> <p>reviews [1] - 6:25</p> <p>revised [2] - 62:21, 65:15</p> <p>revisions [2] - 64:3, 64:5</p> <p>reward [1] - 104:2</p> <p>ride [1] - 87:17</p> <p>rights [3] - 113:7, 113:9, 113:12</p> <p>rigid [1] - 23:25</p> <p>ring [1] - 35:5</p> <p>rise [6] - 4:2, 61:24, 65:11, 65:13, 108:15, 125:17</p> <p>risk [7] - 88:19, 88:20, 103:3, 118:12, 118:14, 118:16</p> <p>role [1] - 116:24</p> <p>room [11] - 14:3, 14:5, 64:17, 68:14, 104:10, 109:5, 123:13, 123:17, 124:6, 124:10, 128:5</p> <p>route [1] - 56:23</p> <p>RPR [2] - 2:2, 128:15</p> <p>rule [1] - 19:22</p> <p>run [4] - 41:3, 42:22, 55:3, 71:25</p> <p>running [2] - 42:19, 57:24</p> <p>résumé [1] - 7:11</p> |
| R | | | | |
| <p>Radius [1] - 50:13</p> <p>Rafa [6] - 48:15, 97:14, 99:7, 99:14, 100:8, 101:5</p> <p>Rafaela [10] - 36:19, 36:22, 69:9, 75:11, 75:14, 79:9, 84:10, 87:11, 92:4, 113:3</p> <p>RAFAELA [1] - 1:4</p> <p>raise [3] - 4:19, 5:18, 77:10</p> <p>ramped [1] - 57:24</p> <p>rarely [1] - 59:23</p> <p>rate [16] - 88:20, 103:4, 114:8, 114:11, 114:12, 114:18, 114:19, 114:21, 114:24, 115:9, 115:10, 115:15, 115:18, 115:22, 115:24, 118:15</p> <p>rather [1] - 117:1</p> <p>Ray [1] - 32:11</p> <p>re [1] - 123:6</p> <p>re-examine [1] - 123:6</p> <p>reach [8] - 10:22, 15:14, 27:13, 32:15, 32:20, 36:3, 110:11, 123:5</p> <p>reached [3] - 17:5, 34:22, 36:3</p> <p>reaching [1] - 35:15</p> <p>reacted [1] - 35:11</p> <p>read [4] - 40:17, 88:14, 104:17, 109:7</p> <p>reading [1] - 107:4</p> <p>ready [6] - 4:3, 5:9, 62:11, 65:23, 108:16, 125:8</p> <p>real [4] - 52:12, 101:14, 123:10, 123:11</p> | | | | |
| S | | | | |
| <p>sacrifice [4] - 67:7, 76:2, 76:3</p> <p>sacrificed [1] - 104:2</p> <p>sacrifices [2] - 67:12, 75:21</p> <p>sailboat [3] - 98:22, 99:1, 99:3</p> <p>salary [6] - 38:3, 52:1, 52:4, 81:7, 114:23</p> <p>sale [8] - 56:16, 72:11, 72:14, 72:15, 72:19, 73:4, 73:6, 96:17</p> | | | | |

July 13, 2023

15

Delio Batista, et al., v. Avant Assurance, Inc., 22-cv-22671-CMA

| | | | | |
|--|---|--|--|--|
| <p>sales [20] - 7:5, 7:7, 7:8, 8:18, 10:25, 11:3, 11:6, 11:23, 12:1, 20:19, 30:1, 35:19, 46:18, 46:20, 56:16, 72:25, 79:23, 88:5, 101:7</p> <p>salesmen [2] - 102:22</p> <p>salespeople [1] - 102:23</p> <p>saleswomen [1] - 102:22</p> <p>San [1] - 1:16</p> <p>SANTIAGO [1] - 1:22</p> <p>Santiago [1] - 1:23</p> <p>SAS [1] - 61:2</p> <p>sat [2] - 74:15, 75:6</p> <p>save [6] - 68:1, 71:24, 74:6, 95:21, 95:22, 95:24</p> <p>saw [7] - 66:17, 67:23, 68:12, 85:8, 93:10, 100:15, 127:5</p> <p>sc@cuetolawgroup.com [1] - 1:25</p> <p>scale [4] - 49:18, 71:19, 71:20, 98:20</p> <p>scales [1] - 68:25</p> <p>schedule [9] - 26:23, 28:1, 28:11, 30:7, 45:13, 45:24, 46:6, 46:7, 48:20</p> <p>scheduled [1] - 29:24</p> <p>schedules [7] - 28:7, 28:18, 31:6, 31:11, 84:25, 85:1, 85:8</p> <p>scheme [1] - 106:8</p> <p>school [6] - 32:8, 58:1, 58:3, 58:4, 58:6, 75:3</p> <p>scope [3] - 53:2, 53:9, 109:22</p> <p>scribble [1] - 124:25</p> <p>se [1] - 46:7</p> <p>season [1] - 11:20</p> <p>seat [4] - 44:22, 44:25, 45:7</p> <p>seated [6] - 4:10, 4:24, 5:24, 62:1, 66:2, 108:21</p> <p>second [3] - 30:14, 99:24, 113:20</p> <p>secret [1] - 122:25</p> <p>section [2] - 82:9, 82:11</p> <p>sections [1] - 82:15</p> <p>SECURITY [4] - 61:24, 65:11, 65:13, 125:17</p> <p>security [7] - 74:8, 88:21, 95:20,</p> | <p>108:22, 118:16, 123:23</p> <p>see [16] - 17:6, 17:12, 31:23, 53:1, 63:1, 71:7, 82:16, 88:14, 88:18, 91:8, 91:17, 99:1, 109:2, 124:18, 127:5, 127:10</p> <p>seeing [2] - 19:15, 21:15</p> <p>seek [2] - 116:21, 123:11</p> <p>seeking [1] - 104:22</p> <p>seeks [1] - 104:23</p> <p>seem [1] - 111:11</p> <p>selected [1] - 21:7</p> <p>self [3] - 84:15, 107:9, 117:12</p> <p>self-employed [2] - 84:15, 117:12</p> <p>self-reported [1] - 107:9</p> <p>sell [21] - 12:1, 17:24, 18:21, 18:24, 21:23, 22:11, 27:9, 35:2, 49:9, 60:17, 74:18, 81:9, 81:10, 92:18, 96:4, 96:5, 96:14, 102:23</p> <p>selling [16] - 22:5, 24:12, 25:6, 27:19, 36:1, 47:1, 47:17, 49:17, 72:2, 74:24, 75:8, 75:12, 79:6, 79:9, 92:24, 122:7</p> <p>semimonthly [1] - 115:2</p> <p>send [3] - 20:14, 80:6, 127:2</p> <p>sending [2] - 61:3, 97:13</p> <p>sends [1] - 87:16</p> <p>senior [1] - 6:24</p> <p>sense [6] - 49:13, 76:11, 76:14, 90:8, 104:20, 110:11</p> <p>sent [19] - 39:10, 40:8, 43:24, 62:14, 62:20, 62:22, 64:6, 84:12, 91:14, 91:15, 91:17, 91:18, 91:19, 91:20, 92:2, 93:22, 97:15, 127:7, 127:21</p> <p>sentence [2] - 40:22, 88:16</p> <p>sentences [1] - 105:19</p> <p>separate [1] - 125:3</p> <p>separately [1] - 112:18</p> <p>series [2] - 100:10,</p> | <p>119:24</p> <p>service [5] - 55:2, 56:10, 56:14, 67:18, 87:20</p> <p>services [12] - 24:24, 27:10, 28:5, 90:1, 90:3, 90:12, 103:8, 103:10, 117:12, 118:22, 118:23, 118:25</p> <p>set [16] - 12:8, 22:22, 24:2, 30:5, 32:6, 84:13, 85:12, 86:8, 87:2, 87:3, 88:12, 102:21, 109:2, 117:23, 117:24, 118:10</p> <p>sets [1] - 124:23</p> <p>seven [3] - 57:15, 58:3, 93:23</p> <p>seven-year-old [1] - 57:15</p> <p>several [1] - 124:16</p> <p>shall [1] - 115:5</p> <p>share [3] - 20:2, 124:10, 126:8</p> <p>shared [1] - 124:6</p> <p>sheet [5] - 17:16, 17:17, 98:19, 100:10, 100:11</p> <p>sheets [1] - 90:7</p> <p>Shield [1] - 60:18</p> <p>shift [4] - 31:16, 31:21, 32:12, 59:13</p> <p>shorter [1] - 69:13</p> <p>show [21] - 28:6, 29:15, 30:6, 32:3, 32:14, 32:16, 44:8, 59:11, 59:13, 78:5, 78:21, 80:15, 83:3, 98:8, 98:13, 99:21, 99:24, 102:11, 105:2, 124:16</p> <p>showed [7] - 29:18, 43:11, 68:4, 70:16, 85:3, 97:9, 98:7</p> <p>showing [3] - 63:19, 64:2, 84:18</p> <p>sick [2] - 88:10, 118:7</p> <p>side [12] - 22:9, 25:7, 27:14, 37:20, 38:14, 49:10, 49:16, 49:17, 75:10, 94:25, 96:21, 98:19</p> <p>side's [1] - 66:17</p> <p>sign [17] - 7:18, 19:8, 19:19, 20:10, 41:4, 41:5, 41:19, 54:21, 54:22, 55:2, 55:23, 71:14, 71:16, 87:9,</p> | <p>101:8, 123:19</p> <p>signature [2] - 20:11, 20:13</p> <p>signed [9] - 20:16, 32:12, 34:20, 41:10, 41:11, 41:19, 41:24, 83:14, 85:22</p> <p>significance [1] - 112:4</p> <p>significant [1] - 117:5</p> <p>signing [2] - 25:13, 52:12</p> <p>similar [4] - 8:14, 16:9, 16:16, 87:15</p> <p>simple [8] - 20:14, 57:25, 70:9, 70:11, 73:24, 82:7, 82:23, 111:24</p> <p>simplified [2] - 25:22, 25:23</p> <p>simply [2] - 112:11, 123:9</p> <p>single [5] - 18:14, 73:5, 93:12, 109:13, 119:9</p> <p>sister [1] - 72:13</p> <p>sit [2] - 48:9, 81:6</p> <p>sitting [5] - 54:20, 54:21, 64:11, 73:14, 101:22</p> <p>situation [4] - 39:14, 60:25, 98:22, 99:2</p> <p>sixth [1] - 90:15</p> <p>size [1] - 18:19</p> <p>skills [13] - 11:24, 46:17, 74:22, 74:23, 74:24, 74:25, 75:1, 75:2, 87:7, 97:3, 97:4, 118:4</p> <p>skip [3] - 100:5, 100:25, 124:20</p> <p>slightly [1] - 68:25</p> <p>slow [3] - 29:12, 29:13, 53:23</p> <p>slowed [1] - 53:20</p> <p>slower [1] - 77:11</p> <p>small [2] - 14:2, 14:5</p> <p>smarter [1] - 26:2</p> <p>social [4] - 74:8, 88:21, 95:20, 118:16</p> <p>software [2] - 56:18, 74:12</p> <p>sold [5] - 18:2, 47:8, 79:22, 83:7, 119:25</p> <p>sole [1] - 114:22</p> <p>someone [8] - 18:14, 27:13, 28:25, 44:20, 45:4, 45:17, 117:10</p> <p>sometimes [12] - 19:6, 20:17, 24:22, 24:23,</p> | <p>35:21, 45:17, 50:23, 70:3, 77:4, 109:6, 112:9, 125:1</p> <p>somewhere [1] - 23:19</p> <p>son [1] - 57:15</p> <p>soon [1] - 125:12</p> <p>sorry [29] - 4:15, 6:16, 9:6, 12:22, 15:5, 23:10, 42:19, 44:10, 44:24, 48:13, 51:14, 54:13, 54:15, 54:19, 58:2, 58:15, 59:12, 60:9, 61:20, 63:1, 63:11, 64:4, 76:24, 94:19, 105:13, 107:1, 107:25, 108:5</p> <p>sort [2] - 20:1, 124:24</p> <p>source [3] - 49:5, 49:6, 114:22</p> <p>SOUTHERN [1] - 1:1</p> <p>space [9] - 15:15, 33:11, 33:16, 44:12, 57:17, 58:23, 59:25, 60:23, 74:12</p> <p>special [9] - 11:16, 11:17, 12:8, 29:11, 31:3, 87:7, 97:4, 98:11, 118:4</p> <p>specialized [1] - 75:1</p> <p>specialty [2] - 25:17, 51:22</p> <p>specific [2] - 8:11, 121:11</p> <p>speeding [2] - 51:5, 51:6</p> <p>spell [1] - 5:25</p> <p>spending [2] - 52:3, 74:11</p> <p>spent [2] - 76:9, 77:24</p> <p>split [1] - 31:13</p> <p>spoken [1] - 121:19</p> <p>spot [1] - 20:24</p> <p>spreadsheet [1] - 52:19</p> <p>spreadsheets [4] - 97:15, 98:3, 100:15, 100:16</p> <p>sprung [1] - 101:23</p> <p>stand [8] - 4:17, 41:17, 67:24, 69:24, 69:25, 70:17, 75:2, 109:17</p> <p>Standard [1] - 61:3</p> <p>standard [2] - 70:23, 78:20</p> <p>Standards [2] - 71:5, 113:6</p> <p>Starbucks [1] - 24:22</p> <p>start [3] - 13:21,</p> |
|--|---|--|--|--|

July 13, 2023

16

Delio Batista, et al., v. Avant Assurance, Inc., 22-cv-22671-CMA

| | | | | |
|--|--|---|---|--|
| 14:16, 77:3 started [14] - 7:2, 14:11, 14:21, 16:4, 22:9, 25:1, 25:5, 52:15, 58:7, 72:10, 75:7, 99:16, 99:17 state [3] - 5:24, 121:11, 122:6 statement [1] - 96:18 statements [3] - 66:12, 97:13, 109:21 States [1] - 128:15 STATES [2] - 1:1, 1:12 status [4] - 106:13, 107:6, 119:13, 119:17 stayed [1] - 59:23 stays [1] - 79:2 Ste [2] - 1:16, 1:23 step [2] - 5:16, 9:21 STEPHANIE [2] - 2:2, 128:15 Stephanie_McCarn @flsd.uscourts. gov [1] - 2:5 stepped [1] - 4:5 sticking [1] - 54:9 still [11] - 16:4, 25:6, 38:8, 39:4, 46:4, 59:20, 59:23, 62:25, 76:18, 126:13 stood [1] - 9:2 stop [1] - 94:13 straight [1] - 38:3 strategic [1] - 77:18 strategy [2] - 21:25, 22:1 street [1] - 87:12 strictly [1] - 8:12 structure [1] - 49:12 stuck [2] - 54:15, 85:14 studied [1] - 72:9 study [1] - 23:3 stuff [8] - 35:2, 50:1, 74:7, 74:10, 78:9, 80:22, 101:12, 103:6 subject [1] - 121:15 submission [1] - 65:22 submitted [1] - 104:15 subscription [2] - 57:21, 57:22 subsidized [1] - 72:18 subsidy [1] - 47:13 substance [3] - 90:17, 103:11, 119:6 substantial [1] - 116:24 substantially [1] - | 121:2 subtracting [1] - 115:20 succeed [1] - 113:15 sudden [1] - 80:22 suffered [1] - 89:3 suggest [1] - 111:3 suing [1] - 95:6 suit [1] - 77:16 summaries [2] - 108:2, 108:5 super [1] - 57:7 supervised [2] - 96:12, 113:11 supervising [1] - 102:6 supervision [1] - 117:8 supplemental [1] - 75:12 supplies [3] - 103:7, 118:19, 118:20 support [1] - 96:4 supposed [6] - 29:15, 30:3, 30:6, 32:6, 83:23, 86:21 surrounding [1] - 119:8 sustained [12] - 10:16, 26:15, 26:20, 30:12, 30:24, 31:9, 32:25, 36:10, 39:18, 41:8, 56:12, 57:3 switch [4] - 12:23, 38:1, 84:5, 102:1 switching [1] - 13:2 sympathy [1] - 109:10 system [10] - 17:2, 29:2, 52:25, 55:4, 55:13, 55:14, 55:19, 56:23, 85:12, 88:1 | technique [1] - 22:3 technology [2] - 56:15, 77:6 telephone [1] - 89:23 ten [6] - 62:11, 63:24, 64:10, 77:21, 107:20, 108:10 ten-minute [2] - 62:11, 63:24 tend [3] - 75:15, 110:18, 112:1 tends [1] - 56:16 terms [6] - 8:17, 15:10, 71:3, 120:8, 120:12, 120:14 test [3] - 75:18, 75:19, 83:24 testified [9] - 4:22, 5:22, 71:12, 71:13, 73:7, 94:8, 97:3, 111:13, 111:19 testify [2] - 71:19, 77:17 testifying [3] - 75:11, 83:9, 111:1 testimony [14] - 68:18, 69:11, 69:14, 73:11, 86:3, 110:1, 110:14, 110:24, 111:16, 111:17, 111:22, 112:20, 124:12, 124:14 tests [1] - 88:15 Texas [2] - 60:13, 60:17 text [2] - 20:14, 93:22 thankfully [1] - 56:15 Thanksgiving [1] - 75:23 THE [146] - 1:12, 1:14, 1:19, 3:3, 3:6, 4:2, 4:3, 4:6, 4:8, 4:14, 4:16, 4:19, 4:23, 4:24, 5:3, 5:5, 5:8, 5:12, 5:15, 5:18, 5:23, 5:24, 6:1, 6:2, 6:3, 6:5, 6:16, 6:18, 10:16, 12:22, 12:25, 13:6, 13:10, 24:14, 26:15, 26:20, 28:20, 28:21, 29:7, 30:11, 30:12, 30:13, 30:14, 30:24, 31:9, 32:25, 36:10, 39:18, 39:23, 39:24, 40:5, 40:6, 40:12, 40:15, 41:8, 52:9, 53:3, 53:4, 53:10, 53:11, 56:12, 57:2, 57:3, 61:12, 61:13, 61:15, 61:17, | 61:20, 61:22, 62:1, 62:7, 62:10, 63:1, 63:6, 63:9, 63:11, 63:15, 63:17, 63:19, 63:22, 63:24, 64:4, 64:11, 64:14, 64:16, 64:20, 64:23, 65:4, 65:7, 65:9, 65:14, 65:25, 66:2, 67:1, 76:22, 76:24, 77:2, 77:9, 86:2, 94:19, 94:21, 94:23, 95:12, 103:13, 104:4, 104:8, 104:15, 104:20, 105:13, 105:20, 106:3, 106:11, 106:17, 106:23, 107:1, 107:3, 107:11, 107:15, 107:19, 107:25, 108:5, 108:8, 108:10, 108:15, 108:16, 108:17, 108:18, 108:21, 108:25, 125:11, 125:19, 125:22, 126:1, 126:6, 126:10, 126:15, 126:17, 126:20, 127:1, 127:3, 127:9, 127:14, 127:18, 127:20, 127:23, 128:3 theirs [1] - 77:23 theme [1] - 22:13 themselves [21] - 18:15, 31:7, 85:1, 85:10, 85:22, 86:4, 86:7, 86:13, 87:21, 87:24, 89:2, 89:12, 90:17, 90:19, 91:4, 95:25, 96:10, 98:12, 103:17, 119:5, 119:16 theories [1] - 100:6 theory [1] - 65:17 they've [1] - 64:17 thinking [1] - 80:1 third [1] - 106:11 Thirteenth [2] - 2:3, 128:16 thoughts [1] - 120:19 three [15] - 4:13, 18:17, 63:13, 74:19, 75:13, 77:21, 77:24, 78:5, 78:8, 92:18, 94:10, 100:23, 120:12, 121:5, 122:15 | three-month [1] - 94:10 throughout [3] - 10:25, 20:25, 99:15 thumb [2] - 126:17, 126:18 tier [5] - 17:2, 18:21, 18:22, 36:1 tiers [1] - 21:7 time-and-a-half [2] - 114:13, 114:16 tip [1] - 49:18 tippling [1] - 68:25 today [13] - 42:22, 68:18, 70:4, 76:7, 76:13, 78:4, 78:23, 79:10, 83:2, 84:19, 90:5, 93:20, 125:15 together [5] - 16:7, 23:1, 43:9, 66:7, 83:9 tomorrow [3] - 44:3, 76:13, 125:15 took [16] - 40:9, 69:9, 72:25, 73:4, 73:5, 75:6, 75:13, 80:8, 86:5, 86:7, 99:20, 105:12, 105:14, 107:18, 124:8, 124:11 tool [6] - 55:23, 56:10, 56:22, 89:14, 89:25 tools [10] - 25:8, 56:14, 89:7, 89:15, 103:7, 118:18, 118:20 top [2] - 40:13, 80:4 total [7] - 52:19, 52:20, 93:23, 115:11, 115:16, 115:20, 124:17 totality [1] - 86:22 totally [2] - 70:10, 70:13 Toussaint [1] - 69:7 TOUSSAINT [1] - 1:15 toussaint@ fairlawattorney. com [1] - 1:18 towards [1] - 41:11 towers [1] - 89:20 town [1] - 69:20 track [5] - 52:13, 52:24, 53:7, 53:13, 54:2 traffic [5] - 50:24, 50:25, 51:4, 51:6, 51:9 train [1] - 6:25 trained [2] - 72:7, 75:4 |
| T | | | | |
| table [1] - 64:25 tag [1] - 12:21 task [1] - 118:11 taught [1] - 70:12 tax [5] - 11:20, 38:16, 71:15, 84:18, 93:22 taxes [13] - 18:16, 38:21, 74:8, 76:10, 84:2, 84:8, 84:16, 84:17, 86:6, 86:13, 88:21, 95:20, 118:16 team [3] - 16:8, 44:17, 61:4 teaming [1] - 12:21 technical [1] - 117:2 technically [1] - 84:14 | | | | |

July 13, 2023

17

Delio Batista, et al., v. Avant Assurance, Inc., 22-cv-22671-CMA

| | | | | | |
|---|--|---|--|--|---|
| <p>training [4] - 51:13, 51:15, 51:17, 74:1</p> <p>transaction [1] - 41:22</p> <p>transcription [1] - 128:11</p> <p>transfers [1] - 72:20</p> <p>transition [1] - 38:6</p> <p>transitioning [1] - 39:2</p> <p>transportation [1] - 87:19</p> <p>tremendous [1] - 99:5</p> <p>TRIAL [1] - 1:11</p> <p>trial [14] - 13:5, 67:2, 67:5, 67:10, 68:5, 68:6, 68:9, 68:10, 68:11, 69:23, 101:23, 110:6, 111:23, 126:7</p> <p>tried [2] - 62:21, 77:25</p> <p>Tripp [1] - 1:19</p> <p>Tropp [15] - 3:9, 3:10, 4:4, 13:9, 13:11, 24:14, 43:11, 70:5, 70:16, 73:1, 76:7, 76:25, 95:1, 99:23, 101:10</p> <p>TROPP [52] - 1:19, 12:19, 13:13, 13:16, 15:21, 24:16, 24:18, 26:16, 26:21, 28:10, 29:4, 29:9, 30:15, 30:25, 31:10, 33:1, 36:11, 39:19, 39:25, 40:7, 40:14, 40:16, 41:9, 52:8, 52:11, 53:5, 53:15, 56:13, 57:4, 61:19, 61:21, 62:9, 62:20, 63:14, 63:16, 63:18, 63:21, 64:3, 64:5, 64:13, 64:15, 64:19, 76:23, 77:1, 77:3, 77:10, 86:4, 105:16, 106:6, 107:24, 127:8, 127:21</p> <p>true [8] - 67:17, 79:1, 85:23, 91:2, 110:22, 112:13, 114:21</p> <p>trust [2] - 41:16, 78:24</p> <p>truth [25] - 69:2, 69:3, 69:17, 69:24, 69:25, 70:1, 70:2, 70:6, 70:8, 70:10, 70:11, 73:14, 73:24, 73:25, 78:25, 79:2, 80:4, 91:1, 91:25, 111:6, 111:8, 111:25, 123:11</p> <p>truthfully [1] - 78:2</p> | <p>try [8] - 15:16, 42:21, 75:2, 79:14, 83:22, 87:11, 95:14, 123:4</p> <p>trying [5] - 15:18, 37:6, 80:9, 82:7, 94:7</p> <p>TV [1] - 58:20</p> <p>twice [2] - 67:21, 101:2</p> <p>Two [1] - 120:10</p> <p>two [26] - 6:15, 6:18, 13:22, 23:16, 31:16, 43:1, 43:12, 43:24, 44:4, 52:18, 54:15, 55:21, 56:2, 58:4, 58:6, 67:22, 72:9, 75:6, 77:24, 79:16, 100:6, 105:18, 116:4, 121:2, 122:14, 124:23</p> <p>two-page [1] - 43:12</p> <p>type [4] - 25:20, 87:7, 97:4, 124:5</p> <p>typically [4] - 44:6, 47:11, 48:21, 50:15</p> <p>typographical [1] - 65:19</p> | <p>113:15, 113:23, 116:23, 119:13, 120:15, 121:22</p> <p>underlining [1] - 35:20</p> <p>understood [1] - 20:21</p> <p>unimportant [1] - 112:6</p> <p>United [1] - 128:15</p> <p>UNITED [2] - 1:1, 1:12</p> <p>unjust [8] - 63:16, 63:17, 100:25, 105:5, 105:9, 105:22, 106:15, 106:20</p> <p>unjustly [1] - 122:9</p> <p>unless [1] - 62:18</p> <p>unpaid [2] - 36:23, 114:14</p> <p>unspoken [1] - 120:19</p> <p>untrue [2] - 92:3, 92:19</p> <p>up [97] - 11:7, 12:8, 19:9, 19:19, 20:10, 20:15, 20:17, 20:23, 25:13, 27:3, 29:1, 29:15, 29:18, 30:6, 32:3, 32:12, 32:14, 32:16, 34:20, 41:4, 41:5, 41:11, 41:19, 41:24, 42:25, 44:8, 50:24, 52:8, 52:12, 52:23, 54:21, 54:22, 55:2, 55:24, 57:19, 59:11, 59:13, 62:22, 63:2, 64:6, 69:19, 69:21, 72:5, 74:21, 75:2, 75:23, 75:24, 77:20, 78:3, 78:7, 79:20, 80:1, 80:2, 80:8, 80:12, 80:21, 80:23, 81:15, 81:18, 81:22, 83:8, 83:11, 83:14, 83:20, 83:25, 84:13, 85:1, 85:3, 85:4, 85:12, 86:8, 87:9, 88:24, 90:5, 90:8, 90:24, 91:6, 91:7, 92:13, 93:20, 94:25, 95:1, 99:3, 101:12, 101:13, 102:11, 105:12, 106:9, 107:21, 108:11, 123:7</p> <p>USB [3] - 127:12, 127:17, 127:20</p> <p>user [1] - 126:12</p> <p>utilize [1] - 64:22</p> | <p>V</p> <p>vacation [3] - 43:19, 88:10, 118:7</p> <p>valid [2] - 120:5, 121:20</p> <p>VALIENTE [1] - 1:5</p> <p>Valiente [2] - 63:4, 113:3</p> <p>value [2] - 11:6, 120:11</p> <p>verdict [14] - 62:6, 66:7, 101:8, 116:4, 122:24, 123:1, 123:16, 123:17, 123:18, 124:15, 125:2, 126:22, 126:24, 127:4</p> <p>versa [1] - 31:21</p> <p>version [1] - 104:16</p> <p>versus [1] - 102:8</p> <p>via [1] - 24:23</p> <p>vice [1] - 31:21</p> <p>violation [1] - 116:25</p> <p>visual [2] - 95:16, 95:17</p> <p>voice [1] - 97:3</p> <p>voted [1] - 124:4</p> <p>vs [1] - 1:7</p> | <p>W</p> <p>W-2 [9] - 23:23, 26:25, 37:24, 38:22, 54:16, 59:12, 71:3, 84:3</p> <p>W-4 [1] - 71:14</p> <p>W-9 [2] - 71:13, 71:14</p> <p>wage [5] - 79:23, 85:15, 89:19, 94:4, 115:17</p> <p>wages [8] - 80:7, 82:9, 82:15, 95:18, 100:23, 103:24, 108:3, 114:14</p> <p>wait [2] - 30:16, 33:14</p> <p>waiting [3] - 4:4, 64:12, 64:16</p> <p>waived [2] - 113:8, 113:10</p> <p>walk [3] - 49:22, 49:24, 81:3</p> <p>walking [1] - 74:15</p> <p>wanna [1] - 27:1</p> <p>wants [1] - 62:18</p> <p>warehouse [1] - 92:6</p> <p>waste [1] - 12:6</p> <p>watch [2] - 53:23</p> <p>water [1] - 98:21</p> <p>ways [3] - 53:7, 55:21, 67:22</p> | <p>week [15] - 24:24, 31:18, 44:4, 48:11, 84:19, 115:7, 115:9, 115:11, 115:14, 115:16, 115:20, 115:21, 115:23, 115:24</p> <p>weekend [1] - 75:14</p> <p>weekends [1] - 59:24</p> <p>weekly [1] - 115:2</p> <p>weeks [5] - 72:9, 75:7, 75:13, 92:20, 115:13</p> <p>weigh [1] - 68:16</p> <p>weight [2] - 110:19, 124:13</p> <p>welcome [2] - 4:9, 40:15</p> <p>whatever's [1] - 126:12</p> <p>whatsoever [1] - 37:10</p> <p>whereas [1] - 54:18</p> <p>wherein [1] - 87:4</p> <p>who'd [1] - 73:3</p> <p>whole [22] - 49:4, 57:22, 64:7, 73:13, 78:21, 79:19, 82:11, 82:23, 85:11, 85:17, 88:3, 90:6, 92:10, 92:11, 92:12, 92:16, 93:16, 109:13, 111:1</p> <p>wife [4] - 70:12, 77:17, 85:12, 96:6</p> <p>willing [1] - 21:19</p> <p>win [3] - 68:7, 98:19, 99:4</p> <p>wind [3] - 98:23, 98:24, 98:25</p> <p>wise [1] - 14:4</p> <p>wish [4] - 83:25, 84:7, 90:18, 123:21</p> <p>withdraw [2] - 13:8, 57:4</p> <p>withdrawn [1] - 13:10</p> <p>withholding [1] - 74:9</p> <p>witness [25] - 4:14, 4:16, 4:17, 4:22, 5:1, 5:8, 5:9, 5:12, 5:22, 61:17, 77:23, 110:24, 110:25, 111:3, 111:5, 111:7, 111:9, 111:11, 111:12, 111:14, 111:19, 111:21, 111:22, 111:25, 112:2</p> <p>Witness [1] - 61:16</p> <p>WITNESS [16] - 4:23, 5:23, 6:1, 6:3, 6:18, 28:21, 29:7, 30:11,</p> |
|---|--|---|--|--|---|

July 13, 2023

18

Delio Batista, et al., v. Avant Assurance, Inc., 22-cv-22671-CMA

| | |
|--|--|
| 30:13, 39:24, 40:6, 53:4, 53:11, 57:2, 61:12, 61:15 witness's ^[1] - 111:16 WITNESSES ^[3] - 3:2, 3:3, 3:6 witnesses ^[6] - 66:13, 108:4, 110:1, 111:1, 112:21, 124:9 Wizard ^[1] - 98:1 wizard ^[1] - 98:5 word ^[2] - 67:25, 68:1 words ^[13] - 10:2, 46:23, 73:10, 95:7, 95:8, 102:21, 103:11, 105:21, 117:4, 120:16, 121:19, 121:20, 122:24 worker's ^[1] - 119:11 workers ^[1] - 75:16 workload ^[1] - 24:6 workplace ^[2] - 9:25, 10:1 works ^[3] - 31:17, 114:5, 114:10 worksheets ^[2] - 108:2, 108:6 workstation ^[1] - 74:16 workweek ^[3] - 114:9, 114:10, 115:5 wrestling ^[2] - 68:21, 98:16 write ^[7] - 63:18, 80:19, 80:20, 92:1, 123:22, 124:24, 125:5 writing ^[2] - 27:10, 123:25 written ^[5] - 65:17, 120:3, 120:4, 120:5, 121:19 wrongdoing ^[4] - 104:25, 105:8, 105:21 wrongdoings ^[1] - 105:6 wrongful ^[1] - 105:3 wrote ^[3] - 46:18, 70:6, 91:14 | Year's ^[1] - 75:24 years ^[10] - 6:15, 6:17, 6:18, 13:22, 23:13, 23:16, 43:2, 58:5, 58:6, 116:5 yesterday ^[5] - 42:16, 63:12, 65:2, 80:23, 83:19 yourself ^[8] - 51:21, 56:8, 56:10, 102:10, 111:4, 111:18, 120:14, 123:2 |
| Z | |
| | zero ^[3] - 21:16, 47:14, 47:21 zoom ^[2] - 40:12, 40:14 Zoom ^[1] - 24:23 |
| Y | |
| year ^[16] - 10:25, 11:13, 16:9, 16:10, 23:16, 38:2, 47:17, 47:18, 47:21, 49:16, 57:15, 58:3, 67:15, 80:18, 99:15, 103:5 | |